MEMORIALS

OF THE

Method and Manner

OF

Proceedings in Parliament

In Passing

BILLS.

Together with several Rules and Customs, which by long and constant practice have obtained the Name of

ORDERS of the HOUSE.

GATHERED

By Observation, and out of the Journal Books, from the time of EDWARD VI.

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CHAP. I.

The manner of chooſing a Speaker in Parliament.

THe day the Speaker is choſen, the Proceeding hath been in this manner: Some perſon (when the generality of Members are come and ſit) doth put the Houſe in mind, That for their better proceedings in the weighty Affairs they are come about, their firſt work is to appoint a Speaker; and recommends to the Houſe ſome Perſon of fitneſs and ability for that Service and Dignity; which uſually hath been one of the long Robe. If the Houſe generally give a teſtimony of their approbation, two of the Members (which for the moſt part were of the Council or chief Officers of the Court) going to the Gentleman named, and agreed to be Speaker, take him from his Place and lead him unto the Chair, where being ſet, they return to their places.

If more then one perſon be named for Speaker, and it be doubtful who is more

generally choſen; ſometimes one of the Members ſtanding in his place, doth by direction or leave of the Houſe, put a Queſtion for determining the ſame.

In the firſt Seſſion of the Parliament 1° *Jacobi*, Sir *Edward Phelips* the Kings Serjeant at Law was firſt named by Mr. Secretary *Herbert*, as fit for that place, in regard of his knowledge of the Laws, the gift of Utterance, his long experience and practice in Parliament; after ſome ſilence, the names of others were mentioned, but the more general Voice ran upon Sir *Edward Phelips*, who thereupon ſtood up, and made a Speech to excuſe and diſable himſelf; but the Houſe notwithſtanding his excuſe, was willing to proceed to a Queſtion, and directed the Clerk, ſitting at the Board, (as the Order is before the Speaker be choſen, ſo it is entred in the Journal of that Seſſion) to make the Queſtion upon his name, *viz. All that will have Sir* Edward Phelips *Speaker, ſay, Yea, &c.* Which done, and he being by general Acclamation choſen Speaker, he was by Sir *John Herbert* and Sir *Edward Stafford* (leading him as the form is) placed in the Chair, the ancient Seat of Speakers: where being ſet, after

ſome

ſome ſilence he ſtood up and made a gratulatory Speech of Form and Thanks.

The firſt Buſineſs in the Houſe is ordinarily to read a Bill that was not paſſed in the laſt Parliament preceding, or ſome new Bill; as in that of 1° *Jacobi*, a new Bill, Entituled, *Touching Common Recoveries againſt Infants*, was read.

But on that day before that was done, there was a motion made for Priviledge of Sir *Thomas Shirley*, who was choſen a Member to ſerve in that Parliament, but detained by an Arreſt; upon which a *Habeas Corpus* was awarded, and the Serjeant that arreſted him and his Yeoman ſent for, and a Committee for Elections and Priviledges choſen.

CHAP. II.

Decorum to be observed in the House.

WHen the Speaker is set in his Chair, every Member is to sit in his place with his Head covered.

No Member in coming into the House, or in removing from his place, is to pass between the Speaker and any Member then speaking; nor may cross or go overthwart the House, or pass from one side to the other while the House is sitting.

No Member is to come into the House with his Head covered, nor to remove from one place to another with his Hat on, nor is to put on his Hat in coming in or removing, until he be sate down in his place.

While the House is sitting, no man ought to speak or whisper to another, to the end the House may not be interrupted when any are speaking; but every one is to attend unto what is spoken: In which Case, Penalties have been imposed; as 4. *Decem.* 1640. and at other times.

When any Member intends to speak, he is to stand up in his place uncovered, and

and addreſs himſelf to the Speaker, who uſually calls ſuch perſon by his name, that the Houſe may take notice who it is that ſpeaks.

If more than one ſtand up at once, the Speaker is to determine who was firſt up, and he is to ſpeak, and the other ſit down, unleſs he who was firſt up ſit down again, and give way to the other, or that ſome other Member ſtand up and acquaint the Houſe, that another was up before him, whom the Speaker calls, and the Houſe adjudge it ſo.

While one is ſpeaking, none elſe is to ſtand up or interrupt him until he have done ſpeaking and be ſate down, and then any other may riſe up and ſpeak, obſerving the Rules.

21. *Junii*, 1604. It was agreed for an Order, *That when Mr. Speaker deſires to ſpeak, he ought to be heard without interruption, if the Houſe be ſilent and not in diſpute.*

12. *Jacobi*, It was vouched by Sir *Dudley Diggs*, (a perſon of much experience in Parliaments) *That when the Speaker ſtands up, the Member ſtanding up ought to ſit down.*

27. *April.* 1604. Agreed for a Rule,

That if any Question be put upon a Bill, the Speaker is to explain, but not to sway the House with Argument or Dispute.

June 4. 1604. Agreed for an Order, *That whosoever hisseth or disturbeth any man in his Speech, shall answer it at the Bar.*

7. *Maii*, 1607. Ordered upon the Question, *That in going forth, no Man should stir until Mr. Speaker do arise and go before, and then all the rest to follow after him.*

CHAP.

CHAP. III.

Standing Committees.

IN Parliament there have usually been Five standing Committees appointed in the beginning of the Parliament, and remaining during all the Session; other Committees were made occasionally, and dissolved after the Business committed unto them was reported.

The Standing Committees are for { *Privileges & Elections.* / *Religion.* / *Grievances.* / *Courts of Justice.* / *Trade.*

The Committees for Religion, Grievances and Courts of Justice, are always *Grand Committees* of the House; which are to sit in the Afternoons upon such Days as the House doth appoint to them respectively.

The Committee for Trade hath sometimes been a select Committee particularly named, and all such Members as should come to it, to have Voices, as in *November*, 1640. Sometimes a Grand Committee of the whole House, as 21. *Jacobi*.

CHAP.

CHAP. IV.

Power and proceedings of the Committee for Priviledges.

BUt the Committee for Priviledges and Elections hath alway had the precedence of all other Committees, being commonly the first Committee appointed, and ordinarily the first day after, or the same day the Speaker did take his place.

This Committee is constituted of particular Members named by the House.

21. *Jacobi*, Upon naming a Committee for Priviledges and Elections, a Motion was made, That all that come should have Voices: But, Sir *Thomas Crew* then Speaker (and well verſed in Rules of Parliament) minded the House, That by the Orders of the House, that was not to be done; and by divers other Members it was insisted on, to be contrary to all former Precedents; yet upon the Debate a Question was put, Whether all that should come should have Voices at that Committee; and it passed in the Negative. And another Question being put, Whether

ther the perſons nominated only ſhould be of that Committee; it was reſolved in the Affirmative.

It was then alſo agreed, That *Council ſhould be admitted at that Committee.*

The Power anciently given to this Committee, appears by the Entry in the Journal Book 26. *Feb.* 1600 in 39. *Eliz. That this Committee ſhould, during all that preſent ſitting of Parliament, examine and make report of all ſuch Caſes touching the Elections and Returns, of any the Knights, Citizens, Burgeſſes and Barons of the Houſe.* And alſo, *of all ſuch Caſes for Priviledge, as in any wiſe may occur or fall out during all the ſame Seſſion of Parliament; to the end, the Houſe upon Report of the ſame Examinations, might proceed to ſuch further Courſe in every the ſame Caſes as ſhould be thought fit.*

And notice was given, That all the Members of the Houſe might repair thither as there ſhould be cauſe.

This latter Power touching Priviledge, ſeems to have been inſerted to prevent the Houſes being troubled with Informations, until they were examined and ripe for a Determination.

But in other Parliaments, both before and

and since, that Power doth not appear to have been given them so absolutely; but matters of Priviledge were upon Information to the House, there heard, and not in a Committee, unless in some special Cases, wherein there was cause of Examination, or of some preparation of a Charge; as in the case of *Smaley*, 23. *Eliz.* and many other Cases.

The Power of this Committee usually was, as it is entred 6. *November*, 1640. *To examine and consider all Questions which shall grow and arise that Parliament about Elections, Returns and other Priviledges.* Or, as in the Parliament 1° *Jacobi* thus: *This Committee are to examine all matters questionable touching Priviledges and Returns, and to acquaint the House with their proceedings from time to time, so, as Order may be taken according to the occasion, and agreeable with ancient Custom and Precedent.*

And to the end these Questions might be speedily determined, and the House might know their Members, Days are usually assigned, beyond which there shall be no questioning a former Election.

So in the Parliament of 21. *Jacobi*, the second day of sitting, It was ordered, *That*

all

all Petitions about Elections and Returns ſhould be preferred to the Committee of Priviledges within a Fortnight from that Day, or elſe to be ſilenced for that Seſſion.

16. *April.* 1640. Ordered, *That thoſe who would queſtion Elections, ſhould do it within Ten days by Petition.*

6. *Novemb.* 1640. Ordered, *That all ſuch as will queſtion Elections now returned, ſhould do it in Fourteen days, and ſo within Fourteen days after any new Return.*

Some queſtions have been, where there have been double Indentures returned for ſeveral Perſons for the ſame place, whether all or any, or which of them ſhould ſit.

The general rule and practice hath been in ſuch caſe, That neither one nor other ſhould ſit in the Houſe, until it were either decided or Ordered by the Houſe: Therefore in *April* 1640. the Lord High Steward, who had power by himſelf or his Deputies, to miniſter the Oathes of Supremacy and Allegiance to all Members returned, before they ſat in the Houſe, gave Order, That where there were more returned for any one place than ought to be, there ſhould be none of them ſworn

till

till it were decided by the Houſe who were duely Elected. But that which may ſatisfie herein, is the Order of the Houſe in that Parliament, That if any ſit in the Houſe, that are returned by more Indentures than uſual, they ſhould withdraw till the Committee for Priviledges had further Ordered.

In the Parliament begun *April*, 1640. and *November*, 1640. It was moved, That where ſome are returned by the Sheriff or ſuch other Officer, as in Law hath power to return, and others by private hands; therefore thoſe returned by the Sheriff or ſuch Officer, ſhould ſit till the Election be quaſhed by the Houſe.

But nothing was Ordered upon it.

24. *Febr.* 1623. Sir *Francis Popham* being returned a Burgeſs for *Chippenham* by one Indenture, and another perſon returned for the ſame place by another Indenture; it was moved he might be admitted into the Houſe till the matter were determined againſt him, and a Precedent quoted in Sir *Thomas Wentworth*'s Caſe the laſt precedent Parliament. But it was then inſiſted on by the Chancellor of the Dutchy and others, That this being a Caſe of a double Return, he was not to be admitted,

mitted, and ſo it was referred to the Committee for Priviledges. His Caſe being reported 9. *April*, he was judged to be duely Elected.

21. *Jacobi*, Two Indentures were returned for *Southwark*, the one returned *Yarrow* and *Mingy*, the other *Yarrow* and *Bromfield*; upon a Report from the Committee for Elections, it was reſolved, That the Election and Return for *Yarrow* ſhould ſtand good, and that he ſhould ſit in the Houſe.

22. *Martii* 21 *Jacobi*, The Houſe was acquainted that Sir *John Jackſon* and Sir *Tho. Beaumont* were both returned for one Burgeſſes place for *Pomfret*; and therefore it was moved, That both might be ſuſpended till it were determined: Mr. *Glanvill* made anſwer to that Motion, That he that was returned might ſit in the Houſe until it were determined; which being contradicted by others, and much Diſpute on both ſides, it was laſtly urged by Sir *Robert Phelips*, That there was not any Precedent for it, and therefore moved the Committee might take the Election into conſideration to morrow, and that in the mean time the parties might forbear to come into the Houſe: which was Ordered accordingly.

4. *No-*

4. *Novemb.* 1640. Upon a Report from the Committee for Priviledges, That ſeveral Indentures were returned for Burgeſſes for the Burrough of *Boſſinny* in the County of *Cornwal*, the one by the Major of the Town, the other promiſcuouſly: The Committee were of opinion upon view of the bare Indenture, That Sir *Ch. Harbord*, who was returned by the Major, was well returned; but the Houſe declared he ſhould not ſit till the Election were decided.

In the ſame Parliament, two Returns were made for *Marlo Magna*, in both Indentures *John Burlace* Eſq; was returned; therefore, upon Report from the Committee, he was admitted to ſit, but the other to forbear till the Queſtion be determined.

17. *April.* 19 *Jacobi*, It was Ordered, *That no Petition ſhould be received by a Committee, but openly at the Committee, and read at the Committee before the Party go that preferred it, and the Parties name that preferred it be ſubſcribed.*

In the Parliament in 21 *Jacobi*, upon a Report made from the Committee for Elections and Priviledges, praying the direction of the Houſe, whether Affidavits might

might be made uſe of at that Committee.

Theſe Reaſons being inſiſted upon, that Affidavits ſhould not be admitted.

1. Becauſe it makes the Parliament lame without the Chancery.

2. It entituleth the Chancery to judge of Returns.

3. Affidavits are oftentimes cautelouſly made by Council or Parties.

4. Witneſſes produced *Viva voce*, by Words, Actions, Geſtures, or the like, may diſcover much, whereby the Committee may judge.

It was likewiſe informed by Sir *Edward Coke* late Lord Chief-Juſtice, That in the Parliament when he was Speaker, which was 35 *Eliz.* Affidavits were not uſed, nor ſince, until of late.

5. Though the Committee examine not on Oath, yet they may puniſh any that ſhall teſtifie untruly: of which an inſtance was given in the laſt preceding Parliament in the Caſe of one *Damport*; It was Reſolved, *That all Affidavits to be taken in any Court concerning Elections, Returns, or any thing depending thereupon, ſhould be rejected, and not hereafter to be uſed.*

CHAP. V.

Members chosen in several Places.

IT falling out ordinarily, that one person is chosen and returned to serve for several places, it is in his Election to make his choise in the House in his own person for what place he will serve, and wave the other Election, so as a Writ may go out for a new Election for such place waved, that the number may be full; but if he shall not do it by the time which the House shall oppoint, then it hath been said, the House will appoint for what place such person shall continue a Member, and that Writs may go out for the other places: but *Quære* whether it hath been done.

Oftentimes on the First day of the meeting of the House, as soon as the Speaker hath been approved, and sometimes before, such persons as have been so doubly returned have made their choice.

In the first Session of Parliament 1° *Jacobi*, the same day Sir *Edward Phelips* was chosen Speaker (before he was presented to the King) he Signed a Warrant as Speaker,

Speaker, by command of the House, for Election of another person in the place of Sir *Francis Bacon* being chosen in two places. And in the same Session, the same day after the Speaker had taken his place, divers Members who were severally returned, as elected in several places, made their choice for what places they would stand, and new Writs ordered.

The Parliament beginning the 13. *April*, 1640. and the Speaker being presented the 15th, upon the 16th day divers made their choice upon such double returns.

The Parliament beginning 3. *Novemb.* 1640. Upon a long Debate for granting time for Elections on double Returns of this nature, it was resolved, *That all such as are doubly returned shall make their choice for which place they will serve on* Monday *next.*

9. *Martii*, 21. *Jacobi*, Resolved, *That all Members of this House doubly returned, shall make their Elections for which they will serve, and that those in the House shall do it presently, or else new Writs to issue for both.*

CHAP. VI.

New Writs for Vacant Places.

A General Order hath usually been made in the beginning of the Session, to authorize the Speaker to give Warrant for new Writs, in case of Death of any Member, or of double Returns, where the party makes his choice openly in the House during that Session; so it was Ordered in the beginning of the Parliaments 18 *Jac.* and 21 *Jacobi.*

Where such general Order is not made, Writs have issued by Warrant of the Speaker, by virtue of special Order, upon Motion in the House.

This Warrant is to be directed to the Clerk of the Commonwealth (then called the Clerk of the Crown) in Chancery, by Order of Parliament 13. *Nov.* 1601.

CHAP.

CHAP. VII.

Rules and Method of Debates in the Houſe.

WHen a Motion hath been made, the ſame may not be put to the Queſtion until it be debated, or at leaſt have been ſeconded and proſecuted by one or more perſons ſtanding up in their places as aforeſaid, and then the ſame may be put to the Queſtion, if the Queſtion be called for by the Houſe, or their general Senſe be known, which the Speaker is to demand, unleſs any Member ſtand up to ſpeak.

When a Motion hath been made, that Matter muſt receive a determination by a Queſtion, or be laid aſide by the general Senſe of the Houſe before another be entertained. An Inſtance is in the Journal 28. *June*, 1604. A Motion being made, another interpoſed a Speech tending to another Buſineſs: but it was anſwered, *That there was no Precedent for that Speech to be uſed before the other Motion, which was made before, had received an Anſwer and an end.* And the Houſe did accord-

ingly determine the first Motion in the first place.

4. *Decemb.* 1640. Ordered, *That till the Business in agitation be ended, no new Motion of any new Matter shall be made without leave of the House.*

If the Matter moved do receive a Debate *pro & contra*, in that Debate none may speak more than once to the Matter: And after some time spent in the Debate, the Speaker collecting the Sense of the House upon the Debate, is to reduce the same into a Question, which he is to propound; to the end, the House in their Debate afterwards may be kept to the Matter of that Question, if the same be approved by the House to contain the substance of the former Debate.

After such Question is propounded, any Member may offer his Reasons against that Question in whole or in part, which may be laid aside by a general consent of the House without a Question put.

But without such general consent, no part of the Question propounded may be laid aside or omitted; and although the general Debates run against it, yet if any Member, before the question be put *without that part*, stand up and desire that

such

ſuch Words or Clauſe may ſtand in the Queſtion, before the main Queſtion is put; a Queſtion is to be put, Whether thoſe Words or ſuch Clauſe ſhall ſtand in the Queſtion.

The like Method is obſerved, where any other Alteration is debated upon, to be made in a Queſtion propounded; but upon putting a Queſtion for ſuch Addition, Alteration or Omiſſion, any perſon who hath formerly ſpoken to the Matter of the Queſtion, may ſpeak again to ſhew his Reaſons for, or againſt ſuch Alteration, Addition or Omiſſion, before ſuch Queſtion be put.

When the Speaker (the Houſe calling for a Queſtion) is putting the ſame, any Member that hath not before ſpoken to the matter, may ſtand up before the Negative be put.

13. *Junii*, 1604. A Bill touching a Subſidy of Tonnage and Poundage having been formerly upon a third Reading recommitted, was returned; And a *Proviſo* being tendred for *Cheſter*, which was twice read, the Queſtion was put for Commitment in the Affirmative: but before the Negative was put, one ſtood up and ſpake to it, which was admitted for Orderly,

becauſe it is no full Queſtion without the Negative part be put as well as the Affirmative.

Every Queſtion is to be put firſt in the Affirmative: *viz. As many as are of Opinion that* (repeating the words of the Queſtion) *ſay, Yea.* And then the Negative thus: *As many as are of another Opinion ſay, No.* To which Queſtion every Member ought to give his Vote one way or other, and the Speaker is to declare his Opinion, whether the *Yea's* or the *No's* have it, which is to ſtand as the Judgement of the Houſe. But if any Member before any new motion made, ſhall ſtand up and Declare, That he doth believe the *Yea's*, or *No's* (as the Caſe ſhall be) have it, contrary to the Speakers Opinion, then the Speaker is to give direction for the Houſe to divide, declaring whether the *Yea's* or the *No's* are to go forth.

Upon the dividing of the Houſe, thoſe are to go forth who are for varying from, or againſt the conſtant Orders of the Houſe (as that a Queſtion ſhall not be put, or not be now put, it being the courſe of the Houſe, that after a Debate the ſame ſhould be determined by a Queſtion or the like) or againſt any Poſitive Order made

made by the Houſe, or for the paſſing any new thing, as reading a Petition or Bill, and Committing, Ingroſſing, or paſſing ſuch Bill, or the like.

10. *Decemb.* 1640. An Order being made the 9. Day, That the Houſe ſhould be Reſolved into a Grand Committee the next Day, for Debating the way of raiſing Money; Upon the 10. Day a Queſtion was upon Debate put, whether the Houſe ſhould be reſolved into a Grand Committee; upon which the Houſe was divided, and a Doubt moved, which were to go forth. It was declared for a conſtant Rule, *Thoſe that give their Votes for Preſervation of the Orders of the Houſe, ſhould ſtay in; and thoſe who give their Votes otherwiſe, to the introducing any new Matter, or for any Alteration, ſhould go forth.*

24. *Martii*, 21 *Jacobi*, Upon a Report from the Committee for Priviledges, a Queſtion was put, That Sir *Tho. Holland* and Sir *John Corbet* were well Elected Knights for *Norfolk*; The Houſe was divided, and a Conteſt which ſhould go forth; It was over-ruled by the Houſe the *No's* ſhould go forth.

Which is alſo the courſe upon any Que-

Queſtion to agree with a Report in favour of the Opinion of a Committee.

Upon dividing the Houſe, the Speaker is to nominate two of thoſe that are in the Affirmative, and two of the Negatives, to count the Houſe; which four (each of them having a Staff in his hand) are to count the number of the Perſons who remain ſitting in the Houſe, and then to ſtand within the Door, two on the one ſide and two on the other, and to count the Number of them who went forth as they come in.

While the Houſe is thus divided or dividing, no Member may ſpeak, nor (unleſs it be to go forth upon the Diviſion) remove out of his place.

When the Houſe is thus told, thoſe two of the Tellers who are of the number of thoſe who have the major Votes, ſtanding on the right hand, and the two others on the left at the Bar, (the reſt being all ſet in their places) are to come from thence up to the Table together, (making the uſual Obeyſance to the Houſe three times; once at the Bar, again at the middle of the Houſe, and again when they are come to the Table.) And that Perſon who ſtands on the right hand, is to declare to the

the Speaker the number of the *Yea's* (who ſat or went out as the Caſe is) and of the *No's*: and then with like reverence to depart into their places; after which Mr. Speaker is to report the ſame to the Houſe.

If the Affirmatives have the major Votes by the judgment of the Speaker, or (in caſe of diviſion) upon the diviſion, the Clerk is to enter the Vote, *Reſolved*. If the Negatives, then he is to enter it thus; The Queſtion being put (ſetting down the Words of the Queſtion) it paſſed in the Negative.

Upon the diviſion, if the Members appear to be equal, then the Speaker is to declare his Vote, whether he be a *Yea* or a *No*, which in this Caſe is the caſting Voice; but in other Caſes, the Speaker gives no Vote.

1. *Maii*, 1606. A Queſtion was moved, whether a Man ſaying *Yea*, might afterwards ſit and change his Opinion; and a Precedent was remembred by Mr. Speaker (Sir *Edward Phelips*) of Mr. *Morris* Attorney of the Wards, in 39. *Elizab.* that in like Caſe changed his Opinion.

If upon a Debate it be much controverted

verted, and much be ſaid againſt the Queſtion, any Member may move, That the Queſtion may be firſt made, whether that Queſtion ſhall be put, or whether it ſhall be now put; which uſually is admitted at the inſtance of any Member, eſpecially if it be ſeconded and inſiſted on; and if that Queſtion being put, it paſs in the Affirmative, then the main Queſtion is to be put immediately, and no man may ſpeak any thing further to it, either to add or alter: But before the Queſtion, whether the Queſtion ſhall be put, any perſon who hath not formerly ſpoken to the main Queſtion, hath liberty to ſpeak for it, or againſt it; becauſe elſe he ſhall be precluded from ſpeaking at all to it.

If in a Debate, there ariſe more Queſtions than one, and it be controverted which Queſtion ſhould be firſt put: the Queſtion firſt moved and ſeconded is regularly to be firſt put, unleſs it be laid aſide by general conſent. If the firſt Queſtion be inſiſted upon to be put, and the major part ſeem againſt it, the Queſtion is to be, Whether that Queſtion ſhall be now put; if that paſs in the Negative, then the other Queſtion may be put, if deſired: nevertheleſs, any perſon may

ſpeak

ſpeak to it again before it be put. If in the Affirmative, then it is to be put without any addition or alteration, as before: And after that Queſtion is put, if any Member move to have the other Queſtion put, every one hath leave to ſpeak to it again as if it were a new Queſtion.

If a Matter be received into Debate, and a Queſtion grow, whether the Houſe ſhall proceed in that Debate at this time, and it fall out that the Houſe be divided; in ſuch Caſe the *No's* are to go forth, it being contrary to the courſe of the Houſe that any Buſineſs ſhould be laid aſide till it be determined by a Queſtion: If the Queſtion be for an adjournment of a Debate, the *Yea's* are to go forth upon the ſame reaſon.

After a Queſtion is propounded, no Man may ſpeak more than once to the Matter; but having ſpoken to the Matter, when the Queſtion comes to be put, he may ſpeak to the Manner or Words of the Queſtion, keeping himſelf to that only, and not ravelling into the Merits of it.

If a Queſtion upon a Debate contain more parts than one, and Members ſeem to be for one part, and not for the other, it may be moved that the ſame may be

divided

divided into two or more Questions: as, 2. *Decemb.* 1640. The Debate having been, whether the Election of two Knights for the County of *Warwick* were void; a Question was put, whether it should be two Questions: and that being Resolved in the Affirmative, the Questions were put severally, upon the Election of the one first, and then of the other.

No Member in his Discourse in the House may mention the name of any other Member then present, but to describe him by his Title or Addition; as that Noble *Lord*, worthy *Knight*; or by his Office, as, *Judg*, *Serjeant*, *Gentleman* of the long or short Robe; or by his Place, as, the Gentleman near the Chair, near the Bar, on the other side; or thus, the Gentleman that spake last; or last save one, or the like.

During any Debate, any Member though he have spoken to the Matter, may rise up and speak to the Orders of the House, if they be transgressed, in case the Speaker do not; but if the Speaker stand up, he is first to be heard, and when he stands up, the other must sit down till the Speaker sit down. But if any Person rise up to speak to the Orders of the House

House in the midst of a Debate, he must keep within that Line, and not fall into the Matter it self; if he do, he may be taken down by the Speaker, or any other Member, calling to the Orders of the House.

Whiles a Member is speaking to a Debate or Question, he is to be heard out, and not taken down, unless by Mr. Speaker, in such Cases as you find therein expressed, or that he speak of such Matter as the House doth not think fit to admit.

24. *Januar.* 23 *Eliz.* Upon a Debate in the House, Mr. *Carleton* endeavouring to speak contrary to the Sense of the House, was interrupted; and afterwards offering to speak again, saying with some repetition, That it was for the liberty of the House, the Speaker and the House did stay him.

April 1604. Agreed for a Rule of the House, *He that digresseth from the Matter to fall upon the Person, ought to be suppressed by the Speaker.*

17. *April* 1604. Agreed for a general Rule, *If any superfluous Motion or tedious Speech be offered in the House, the Party is to be directed and ordered by the Speaker.*

2. *Maii* 1610. A Member speaking, and

and his Speech ſeeming impertinent, and there being much Hiſſing and Spitting; It was conceived for a Rule, *That Mr. Speaker may ſtay impertinent Speeches.*

18. *Maii* 1604. It was Reſolved, That eight ingroſſed Bills ſhould be read the next day, half an hour after eight: The next day about that time, a Member entring into a long Diſcourſe *De mera fide & ſola fide*, &c. was interrupted, and the Queſtion offered, whether he ſhould go on in reſpect of the Order. But it was agreed for a Rule, *If any Man ſpeak not to the Matter in Queſtion, the Speaker is to moderate.*

14. *April.* 1604. In a Matter formerly propoſed, touching the abuſe of the Purveyors, it was argued, Whether it were fitteſt to proceed by way of Petition to the King, or by Bill: which was ſpoken to by Mr. *Marten*, Mr. *Hoskins*, and others, and laſtly by Sir *Henry Jenkin*, who was obſerved to miſtake the Queſtion; and therefore (to prevent the idle expence of time) was interrupted by Mr. Speaker, and thereupon a Rule conceived, *That if any Man ſpeak impertinently or beſides the Queſtion in hand, it ſtands with the Orders of the Houſe for Mr. Speaker*

to interrupt him, and to know the pleasure of the House, whether they will further hear them.

A Matter upon Debate having been once finally determined by a Question, ought not to be again brought into dispute.

27. *Martii*, 1604. Sir *Edward Coke* Attorney-General, and Doctor *Hone* bring a Message from the Lords, desiring a Conference about the Case of Sir *Francis Goodwyn*: Upon this Message it was argued, That now the Judgment having passed the House, it could not, nor ought to be reversed by them; and upon the Question it was resolved, There should be no Conference.

In sapientum decretis non est litura.

2. *April.* 1604. A Vote having passed some days past, That no Conference should be admitted with the Lords, the same Question was again moved, but was carried in the Negative: And it was then urged for a Rule, That a Question being once made and carried in the Affirmative or Negative, cannot be questioned again, but must stand as the Judgment of the House.

In the Answer of the Commons House

of Parliament to King *James*'s Objections in Sir *Francis Goodwyn*'s Case, *April* 3. 1604. The Objection being, that they refuse Conference with the Lords.

The Answer is in these words, Concerning our refusing Conference with the Lords, there was none desired until after our Sentence passed; and then we thought that in a Matter private to our own House, *which by Rules of Order might not be by us revoked*, we might without any imputation refuse to confer.

CHAP. VIII.

Grand Committees, and their manner of Proceedings.

A Grand Committee consists of as many Members, at least, as constitute the House, (less may not Sit or Act as a Committee) who have general Powers to consider of any Matters touching the subject Matter referred, and to present their Opinions therein to the House, the better to prepare Matters of that Nature, or Bills therein, for the House; which may better be prepared, by the Liberty that every Member hath in a Grand Committee, as well as in other Committees, to speak more than once to the same Business, (if there be cause) which is not permitted in the House.

But Grand Committees have their Powers and Rules, in other Circumstances, given them in express Words by the House; as, to send for Witnesses, to hear Council, or assign them on either part, to send for Records; which appears by several motions made in the Parliament 21. *Jacobi.* Sir *Robert Phelips* (a Person

of much Experience in the Course and Orders of Parliament) moved the House from the Grand Committee for Courts of Justice, that they might have Power in the particulars aforesaid.

8. *Martii*, and 13. *Martii*, in the same Parliament, Upon report from the Committee for Trade, (which then was a Grand Committee) the House was moved for their Order to the Merchants Adventurers to bring in their Patents, and that the Inventor of the pretermitted Customs should attend the Committee.

15. *Maii*, 22. *Jacobi*, Upon Complaint from the Grand Committee for Grievances, that they had sent several Warrants for divers Persons to bring in their Patents, which they had not done; the House ordered *the Serjeants at Arms to be sent for them.*

When any great Business is in Agitation that requires much Debate, or a Bill for a publick Tax is to be committed, the House doth use to resolve it self into a Grand Committee of the whole House; which is done by a Question, and then the Speaker leaves his Chair; and thereupon the Committee (which must consist of as great a number as constitutes a House, as

is before declared) makes choice of a Chair-man, in which case, if more than one be generally called to the Chair, any Member may stand up, and by consent of the Committe, put a Question for one of those named to be the Chair-man.

19 *Jacobi*, a Dispute being in the Committee, which of two Members named should go to the Chair, the Speaker was called to his Chair, and put the Question, That Sir *Edward Coke* (who was one of the persons named) should take the Chair, and then the Speaker left his Chair.

The Chair-man of the Grand Committee is to sit in the Clerks place at the Table, and to write the Votes of the Committee.

If upon putting a Question, the Chair-man (who is to judge by the Voices) have delivered his Opinion that the *Yea's* have it, and any Member stand up and say, He believes the *No's* have it, (or contrariwise) the Committee is to divide within the House; the Chair-man directing the *Yea's* to go to that side of the House that is on the one hand, and the *No's* to the other side, and then he is to appoint one of each to count the numbers and report

them; which is to be done in the ſame order as in the Houſe, ſaving that the Obeyſance is only twice in the Committee, thrice in the Houſe: if the numbers be equal, the Chair-man hath a caſting Voice, otherwiſe he hath no Voice in the Committee.

When the Committee hath gone through the Matter referred to them, the Chair-man having read all the Votes, is to put the Queſtion, That the ſame be reported to the Houſe: If that be reſolved, he is to leave the Chair, and the Speaker being again called to the Chair, (or at the next ſitting of the Houſe, if it be then adjourned) the Chair-man is to report what hath been reſolved at the Committe, ſtanding in his uſual place, from whence (if it be not in the ſeat next the Floor) he is to go down to the Bar, and ſo to bring up his Report to the Table.

If the Committee cannot perfect the Buſineſs at that ſitting, they may not adjourn as other Committees; but a Queſtion is to be made for reporting to the Houſe, and that leave be asked, That the Committee may ſit at another time on that Buſineſs.

But if, as ſometimes it falls out, the Matter

Matter hath received a full Debate in the Committee, and it is judged fit to be resolved in the House, the Speaker is again called to the Chair for that purpose.

In other things than as aforesaid, the Rules of Proceedings are to be the same as are in the House.

4 *Junii*, 1607. agreed for a Rule.

1. *Every Question upon the Voices of a Committee bindeth, and cannot be altered by themselves.*

2. *Every thing directed and agreed to be reported, ought to be accordingly reported but not every thing spoken or debated at a Committee.*

28 *Julii*, 1641. declared by the House, *That no Committe ought by Vote to determine the Right or Property of the Subject, without first acquainting the House therewith.*

6 *Aug.* 1641. Resolved, *That no Vote past at a Committee, and not reported nor confirmed by the House, shall be any Rule or Direction for any Court of Justice in* Westminster-Hall *to ground any Proceedings thereon.*

CHAP. IX.

Publick Bills, and manner of Proceeding on them.

ANY Member of the Houſe may offer a Bill for Publick Good, except it be for impoſing a Tax; which is not to be done but by Order of the Houſe firſt had.

But if any Member deſire, that an Act made and in force, may be repealed or altered, he is firſt to move the Houſe in it, and have their Reſolution, before any Bill to that purpoſe may be offered; and if, upon the Reaſons ſhewed, for repealing or altering ſuch Law, the Houſe ſhall think it fit, they do uſually appoint one or more of the Members to bring in a Bill for that purpoſe. In the beginning of every Parliament, ſome perſons have been appointed to conſider of ſuch Laws as had continuance to the preſent Seſſion, whether they were fit to be continued or determined; as alſo of former Statutes repealed or diſcontinued, whether fit to be revived, and what are fit to be repealed.

19 *April*, 1664. Mr. Serjeant *Sing* moved

moved for ſome courſe to be entred into for continuance of Statutes, and offered ſomething in writing to that end; but the Houſe thought fit a Bill for continuance ſhould not be brought in by any but the Committee for that purpoſe; which holds *à fortiori* in repealing Statutes.

A private Bill that concerns a particular perſon, is not to be offered to the Houſe, till the leave of the Houſe be deſired, and the ſubſtance of ſuch Bill made known; either by Motion or Petition: nevertheleſs, the Speaker hath had liberty to call for a private Bill to be read every morning; and uſually the morning is ſpent in the firſt reading of Bills, until the Houſe grow full.

If any publick Bill be tendred, the perſon who tenders the Bill muſt firſt open the matter of the Bill to the Houſe, and offer the Reaſons for the admitting thereof; and thereupon the Houſe will either admit or deny it.

If a Bill be admitted to be read, the ſame is to be preſented fairly written, without any razure or interlineator, together with a Breviate of the Heads of the Bill, and unleſs it be ſo tendred, the Speaker may refuſe it.

When

When a Bill hath been read the first time, the Clerk is to deliver the same to the Speaker, who standing up uncovered, (whereas otherwise he sits with his Hat on) and holding the Bill in his hand, is to open the same, first reading the Title thereof, and after he hath done, declares this to be the first reading of such Bill; and until the Bill be opened, no Member may speak to it.

After the first reading of a Bill, and the same opened, no man regularly may speak to it, until it hath been the second time read, unless he speak to cast it out; in which case any other may speak for the retaining thereof: Nevertheless, it is not without Precedent, that upon the first reading of a Bill Debates have been upon it *pro* and *contra*, especially when the House hath generally disliked the Bill; and in case, after Debate, the House do call to the Question, and the sense of the House therein be doubtful, the first Question is to be put (not, whether the Bill shall be read the second time, for so it ought to be in ordinary course without a Question, if nothing be said against it, but) whether the Bill shall be rejected. If it pass in the Affirmative, the Clerk enters the

the ſame in his Journal, and alſo endorſes it upon the back of the Bill.

By the Journal of the Parliament held 43 *Eliz. November* 17. upon debate of the Bill againſt unlawful Hunting, fifth Seſſion of the firſt Parliament of King *James*, this appears to have been the courſe.

In the Parliament 1604, the Bill touching Apparel upon the firſt reading was diſliked, and ſo ſpoken to *pro* and *contra*; which is not uſually admitted, without ſome extraordinary conceit of miſchief, inconvenience or imperfection, and the Queſtion was put preſently for the Rejection: Upon the diviſion of the Houſe, thoſe for the Bill ſate, thoſe againſt it went out; which was alſo done 7 *Aug.* 1641. upon the Queſtion for rejecting the Bill for Light-houſes in the North.

If the Bill be not ſo generally oppoſed, but only by ſome, then the Queſtion is to be, Whether the Bill ſhall be read a ſecond time? and if that Queſtion for reading the Bill a ſecond time paſs in the Affirmative, it is to be read at ſuch convenient time as the Houſe ſhall be minded of it by the Speaker, or as the Houſe ſhall appoint: If it paſs in the Negative, then a Queſtion is to be put for Rejection.

Bills

Bills, especially Publick Bills, have not usually been read more than once in one day, but put off to the next day, or for two or three days, (except it require haste) to the end the Members of the House may have time to consider of it: and (if they shall desire it) may peruse the Bill, to enable them to speak to it at the next reading. But in former times Bills have been twice, yea thrice read in one day, and passed, as may be seen in the Proceedings upon the Bill against Counterfeit Seals, 16 *Feb.* 23 *Eliz.* and in the Bill against Disobedience to the Queen, 4 *Martii* of the same year; the Bill for recognition of the Succession of the Crown in the first Session of the Parliament 1 *Jacobi*: And therefore any Member may move it may be read the same day the second time; and any other Member hath liberty to offer his Reasons against such second reading at that time; but it is not done, but upon Motion or Order of the House.

Sometimes the House upon Debate doth pass some Votes to be the Heads of a Bill, or refer it to a Committee of the whole House to prepare such Heads: Nevertheless, when it is digested into a Bill, and

and that comes to be read or paſſed, it is lawful to debate or argue againſt all or any part thereof, to alter or reject it; becauſe Votes, in order to a Bill, are no further binding, but that the Bill is to be preſented containing thoſe Votes; and, becauſe the Bill gives occaſion of a more large Debate, and being to paſs into a Law, every Member hath liberty to offer his Reaſons againſt it, as well as give his Vote, as often as it comes to a Queſtion.

When a Bill hath been read the ſecond time, and opened as before, any Member may move to have the ſame amended, but muſt ſpeak but once to it; and therefore muſt take all his Exceptions againſt the Bill, and every part of it, at one time: For in the Debate of a Bill, no man may ſpeak but once the ſame day, except the Bill be read more than once that day, and then he may ſpeak as often as it is read.

4. *June*, 1604. Agreed for a Rule, *If two ſtand up to ſpeak to a Bill, he that would ſpeak againſt the Bill, if it be known by demand, or otherwiſe, is to be firſt heard.*

If the Exceptions be ſuch as may not be amended at the Table, then the Queſtion is for the committing of the Bill; but

but no Bill is to be committed without some Exceptions taken to it; as it was insisted on upon that Question for committing the Bill *for Probate of Suggestions in case of Prohibitions*, which were then made, and thereupon the Bill was committed.

No *Proviso* or Clauses are to be tendred to a Bill upon a second reading; because if it be committed, it is proper to offer them to the Committee without troubling the House; as 16 *Junii*, 1604. It was moved that sundry *Proviso's* then tendred, be offered to the Committee.

If that Question for Commitment pass in the Negative, then the Question is to be put for ingrossing the Bill; so it was upon the second reading of the *Bill for Limitations of Actions*, 21 *Jacobi*. And another *Bill for Explanation of a Clause in an Act* 3 *Jacobi*, Entituled, *An Act for the better discovering and suppressing Romish Recusants*, the same day. But if the Question for the ingrossing the Bill pass in the Negative, then the Question is to be put for rejecting the Bill.

If the Question for committing the Bill pass in the Affirmative, then a Committee is to be named; of which, all those that took

took Exceptions againſt any Particulars in the Bill (but not thoſe who ſpake againſt the whole Bill) are to be, and any Members that pleaſe, may name one a-piece, but not more to be of that Committee.

10. *November*, 1640. Declared for a Rule, *That at the naming of a Committee, if any man riſe to ſpeak, the Clerk ought not to write.*

11. *Novemb.* 1601. Reſolved and Ordered upon the Queſtion, *That ſuch Member as declares himſelf againſt the Body and Subſtance of any Bill upon any the readings thereof, ſhall not hereafter be admitted to be of a Committee in any ſuch Bill, according to former Order uſed in Parliament.*

7. *Martii*, 1606. Mr. *Hadley* being aſſigned of a Committee to confer with the Lords, deſired to be ſpared, he being in opinion againſt the Matter it ſelf; and it was conceived for a Rule, *That no man was to be employed in any Matter, that had declared himſelf againſt it:* And the Queſtion being put, whether Mr. *Hadly* were to be employed: It was reſolved, he was not to be employed.

Committees upon Bills have not uſually been

been less then Eight, sometimes Twenty, seldom more in former times; which engaged them to attend it and speed it.

12. *Aprilis*, 1604. Upon a motion made touching the slow proceedings and dispatch of such Bills and Business as were depending in the House, which grew, as was said, by the non-attendance of Committees: It was Ordered, *That if Eight of any Committee do assemble, they might proceed to a Resolution in any Business of the House.* Formerly, all were to attend.

When a competent number are named the Speaker useth to put the House in mind of appointing the time and place of their meeting; at which time the Committee are to meet; especially those, who did made any Exceptions to the Bill. Eight of the Persons named must be present to make a Committee, (unless where a less number of them are appointed to be a Committee, which hath been done sometimes in private Cases, but seldom or never in publick Bills.) but Five may adjourn.

In some Cases the House hath Ordered a Commitee to withdraw into the Committee Chamber presently, and bring it back sitting the House; as was done in the

the *Bill for Probate of Suggeſtions in caſes of Prohibitions aforeſaid.*

Some Bills of great concernment, and chiefly in Bills to impoſe a Tax, or raiſe Money from the People, are committed to a Committee of the whole Houſe, to the end there may be opportunity for fuller Debates, for that at a Committee the Members have liberty to ſpeak as often as they ſhall ſee cauſe, to one Queſtion; and that ſuch Bills being of general concernment, ſhould be moſt ſolemnly proceeded in, and well weighed; and ſometimes when a Bill of that nature hath been conceived fit to be made, the Houſe hath thought fit to reſolve themſelves into a Committee, and either there, or in the Houſe, to Vote ſome Heads for direction of ſuch as ſhall be employ'd to prepare the Bill.

Any Member of the Houſe may be preſent at any ſelect Committee, but is not to have any Vote, unleſs he be named to be of the Committee.

The Committee are firſt to read the Bill, and then to conſider the ſame by parts.

The Preamble, if any be, is uſually conſidered after the other parts of the Bill,

becauſe, upon the conſideration of the Body of the Bill, ſuch alterations may be therein made, as may alſo occaſion the alteration of the Preamble; which will beſt be done laſt.

The Committee may not raze, interline, or blot the Bill it ſelf; but muſt in a Paper by it ſelf ſet down the Amendments in this manner; *viz.* In ſuch a Folio and ſuch a Line, between ſuch a Word and ſuch a Word, or after ſuch a Word, inſert theſe Words, or omit theſe Words; and inſtead thereof (if there be cauſe) inſert theſe words.

When the Amendments are all perfected, every one being voted ſingly, all of them are to be read at the Committee and put to the Queſtion, Whether the ſame ſhall be reported to the Houſe? When that Vote is to be put, any Member of the Committee may move to add to thoſe Amendments, or to amend any other part of the Bill.

Otherwiſe, when a Vote is once paſſed at a Committee, the ſame may not be altered, but by the Houſe: ſo the Entry is in the Journal, 4 *Junii*, 1607. Every Queſtion upon the Voices of the Committee bindeth, and cannot be altered by them-

themſelves. And thus every thing agreed to be reported, ought to be reported.

If the Vote of the Committee paſs for reporting the Amendments to the Houſe, then one of the Members of the Committee (which is commonly the Chairman) who is beſt acquainted with the Bill, is to be appointed to make the Report; which being done, that Committee is diſſolved, and can act no more without a new Power.

3 *Martii*, 1606. it was ordered, *That every Committee when they proceeded to amendment of any Bill committed to them, ſhould alſo amend the Breviate annexed, and make it agree with the Bill.*

Reports are uſually to be received daily, in the firſt place, after the Houſe is full; except there be Bills engroſſed, which are to take place, and publick Bills before private.

The Reporter muſt firſt acquaint the Houſe, That he is to make a Report from ſuch a Committee, to whom ſuch a Bill was committed, and ſtanding in his place, muſt read each of the Amendments with the Coherence in the Bill; and opening the Alterations, and the Reaſons of the Committee for ſuch Amendments, until

he hath gone through all, and then muſt (if he ſit not in the ſeat next the Floor) come from his place to the Bar, and ſo come up to the Table, and deliver both the Bill and Amendments to the Clerk, by whom he is to ſtand, while the ſame are twice read; which is to be done by him (without reading any words that are to be omitted, but only ſuch as are to be inſerted) before any man ſpeak to any of them; and then the Bill, with the Amendments, is to be delivered to the Speaker.

4 *Junii*, 1607. the Bill touching the Union between *England* and *Scotland* having been committed, when the Amendments were reported, the whole Bill was by Order of the Houſe firſt read, and then the Amendments by themſelves; which is a ſingle Precedent uſed only in a Caſe of great weight.

After ſuch reading of the Amendments, any Member may ſpeak againſt all, or any of the Amendments, and deſire the Coherence to be read; but he is to make all his Objections at once to all the Amendments, without ſpeaking again: onely ſometimes, in Matters of great Concernment, it hath been deſired, That the Amendments be conſidered one by one, and

ſo

ſo put to the Queſtion, and then may he ſpeak to them.

Exceptions may be taken as well to what is omitted out of the Bill by the Committee, as to what is amended.

6 Junii, 1604. Amendments being reported to a Bill for providing a godly and learned Miniſtry, a Queſtion was made, Whether the words [*or being no Graduate*] ſtruck out by the Committee, ſhall ſtand in the Bill? and it was upon the Queſtion ordered to ſtand.

Upon this or any other Report from a Committee, the firſt Queſtion ought to be for agreeing with the Report, unleſs the Houſe generally diſlike it.

All the Amendments reported by the Committee are to be proceeded in before any new Amendment or *Proviſo* be admitted, unleſs it be amending the Amendments reported.

If there be Exceptions againſt the Amendments reported, which cannot be conveniently amended at the Table, then the Bill is to be recommitted to the ſame Committees.

After the Houſe hath proceeded upon all the Amendments reported, there have been ſometimes offered other Amend-

ments, *Proviſo*'s, or additional Clauſes written in Paper, after acquainting the Houſe with the ſubſtance thereof; which (if the Houſe do approve) are to be read by the Clerk, and opened by the Speaker. After the firſt reading and opening, any perſon may ſpeak for rejecting it, or for a ſecond reading; which, if it come to a Queſtion, the firſt Queſtion to be put, is, Whether it ſhall be read the ſecond time? If that be carried in the Negative, the next Queſtion is for rejecting it.

If the Vote paſs for the ſecond reading of ſuch Clauſe or *Proviſo*, then (after reading and opening it as before) is a proper time for debate thereof, for alteration or laying it aſide, or for committing the ſame with the Bill.

But regularly, no ſuch thing ſhould be offered after a Commitment, but the ſame ſhould be offered to the Committee, where it may be firſt conſidered and prepared, and ſo the time of the Houſe ſaved.

If the Amendments be agreed, and no ſuch Clauſe or *Proviſo* tendered, or being tendered, be agreed; then the Queſtion is to be, That this Bill with the Amendments (and *Proviſo*'s or Clauſes added, if

any

any be) be engroſſed; at which time any may ſpeak for rejecting the Bill, as well as upon the firſt or ſecond reading. But if the Vote for engroſſing paſs in the Affirmative, the ſame is to be engroſſed by the Clerk, and hath uſed to be examined by the Reporter, and one or more of the former Committee, to take care the ſame be truly engroſſed; eſpecially if the Amendments be many, and not fairly written.

The Title is to be endorſed on the back of the Bill, and not within.

All Bills regularly are to be engroſſed and read a third time; which being engroſſed, the Speaker is to put the Houſe in mind thereof, at convenient times, to have them read: And engroſſed Bills are to be read before any other, unleſs it be of great Concernment; in which caſe the Houſe hath ſometimes ordered, That ſuch Bill ſhould not be read till Ten of the Clock, to the end the Houſe may be full.

The Speaker, the day before, doth uſually acquaint the Houſe, That ſuch Bills are engroſſed, and that he intends the next day to offer them to be paſſed.

7 *Febr.* 18 *Jacobi*, ordered, *That no Bill be put to paſs till Nine of the Clock,*

and notice to be given the day before, That Bills shall be passed the next day.

24 *April.* 22 *Jacobi*, ordered, *That all the Members of the House do attend the House half an hour after Seven of the Clock, and Bills to be put to passage by Eight; and that on* Monday *next they should be offered to passing.*

Upon such third reading and opening thereof by the Speaker as before, (the House being acquainted this is the third reading) any Member may then likewise speak against the whole Bill, to throw out the same, or to any Clause thereof, to be omitted or amended; so as such Amendment be in one or few words, which may be done at the Table.

A *Proviso* or Clause engrossed in Parchment, may after a third reading, and before the Question for passing it, be tendered to be made part of the Bill: but he that tenders it must be careful that the same be so penned, as that it may pass as it is, or be capable of an Amendment at the Table, by adding or amending one or few words; else it is in danger to be rejected, because it is not regularly to be committed.

When such *Proviso* or Clause is so tendered, the substance thereof being first opened

opened to the Houſe, if the Houſe admit the ſame to be read, it is to have the ſame Proceeding, as in the firſt, ſecond and third Reading of a Bill; and if after the ſecond Reading there be no Objection againſt it; or after Debate, when it comes to a Queſtion, the Queſtion is to be put, Whether the *Proviſo* or Clauſe ſhall be part of the Bill: If the ſame paſs in the Negative, then the Clerk is to enter a *Memorandum* thereof; if in the Affirmative, then an Entry is to be made thereof likewiſe; and then he is to File the ſame to the Bill ingroſſed.

If while ſuch *Proviſo* or Clauſe is in Debate, any Queſtion be for Amendment thereof, or Addition thereunto before the *Proviſo* or Clauſe be put to the Queſtion; the Queſtion is to be put, Whether ſuch Amendment or Addition ſhall be made? If that paſs in the Negative, and no other be deſired, (which, if it be, is in the like ſort to be proceeded in) the *Proviſo* or Clauſe alone (or if in the Affirmative, then with that Amendment or Addition) is to be put to the Queſtion, Whether it ſhall be part of the Bill as before.

If the Houſe think fit to amend any thing in an ingroſſed Bill, the ſame, ſo as it

it do not deface the Bill, is to be done at the Table; for after a third reading, no Bill is to be recommitted upon the Matter or Body of the Bill: so the Journal, 1610. but the debate hath been adjourned to another day. If it be the next day, without any other Debates between, then he who spake to the Body of the Bill the day before, may not speak again to the Bill or any part thereof, no more than he might have spoken twice that day.

22. *June*, 1604. The Bill for Restraint of the excessive wearing of Cloth of Gold and Silver, Gold and Silver Lace, *&c.* was read the third time, and much disputed; but the time being far spent, further Dispute, and the Question was deferred to the next morning.

23. *June*, The Dispute touching the Bill for Apparel was moved and continued. Upon the Dispute of that Bill, some Members of the House offering to speak, having spoken the day before to the same Bill: It was agreed for a Rule, *If a Bill be continued in Speech from day to day, one man may not speak twice to the Matter of the same Bill.*

Or else, a Bill hath been committed upon some particular Clause or *Proviso*, which

which was done in a Case of the fourth Session of Parliament, in the First year of King *James*, upon the *Bill touching Sea-sands*; and in the third Session of the same Parliament, upon the *Bill of Clothing*: when, upon a Report of the Committee, the next day, a *Proviso* was by direction of the House razed out of the Bill, by the Clerk at the Table, and so the Bill put to the Question, passed.

But if the words to be amended may be done at the Table, it is done there without a recommitment.

So 6. *Maii*, 1606. It was much disputed, whether a Bill ingrossed, and found fault with, should be recommitted into the Committee Chamber, or amended at the Table: It was resolved, it should be amended at the Table.

When a Bill is read the third time; if any Clause be resolved by the House to be added, not being tendred in Parchment, the same ought to be written first in Paper, and read twice; and then if it be agreed, and ordered to be ingrossed, and added to the Bill, it is then to be ingrossed, and read a third time; and so if it be agreed, is to be passed with the Bill: Thus it was done in the *Bill to restrain the Haunting of Ale-houses*,

houſes, in *June* 1604. where a Clauſe was added, That the Act ſhould continue only to the end of the firſt Seſſion of the next Parliament.

When all the Clauſes and *Proviſo*'s to the Bill are agreed or rejected, and the Debate ended, the Speaker is to ask the Pleaſure of the Houſe, whether he ſhall put the Bill to the Queſtion; if it be the general Senſe of the Houſe, and none ſtand up to ſpeak againſt it, then he is to put the Queſtion Affirmatively and Negatively.

If any Member ſtand up before the Negative be put, he having not formerly ſpoken to the Matter, he is to be heard.

If it paſs in the Affirmative, an Entry is to be made thereof in the Journal Book, as of all other the Proceedings aforeſaid; if in the Negative, the Clerk enters on the back of the Bill, *Daſhed*.

11. *November*, 1601. Upon Queſtion after Debate, whether any Member of the Houſe, after having been a Committee in any Bill, may afterwards ſpeak in the Negative part againſt the ſaid Bill: It was reſolved and ordered upon the Queſtion by the whole Houſe, *That any Member of this Houſe, that hath been or ſhall be a Committee*

mittee in any Bill, may afterwards ſpeak or argue Negatively to any ſuch Bill, without Impeachment, or Imputation of breach of former Order; which ſaid Order and Reſolution was appointed by the Houſe to be entred for a future Precedent accordingly.

21. *Martii*, 1588. The *Bill for relief of the City of* Lincoln, was read the third time; and after many Arguments, both for the Bill and againſt it, the Bill was paſſed upon the Queſtion, and the Diviſion of the Houſe, with the difference of 53. Perſons, *viz.* with the Bill 118. and againſt the Bill 65. Which difference being reported to the Houſe, the Bill was afterwards, according to the Ancient Orders of the Houſe in ſuch Caſes, carried out, and brought in again by Mr. Vice-Chancellor, with the Bill in his Hand, followed and attended on with all the Members of the Houſe then preſent, as well thoſe who had firſt before given their Voices againſt the paſſing the ſaid Bill, as thoſe that had given their Votes with the paſſing of the ſame.

The Entry is made in the Journal of the Seſſion of Parliament.

4. *Jacobi*, The Queſtion being put for paſſing

passing a Bill, the House was divided, the *Yea's* went forth, the *No's* sat, and it passed in the Affirmative; upon Motion, such as sate against the Bill went forth of the House, and brought in the Bill in their hands, which is according to Ancient Order, and was now moved, and done once in a Parliament for preserving the memory of the Order, and so expressed by the Mover.

When a Bill is passed after the third reading, there is no further Alteration to be made; yet in case of an apparent mistake therein, either by false Writing or otherwise, the House hath upon notice thereof, caused the same to be amended the day following, in the House; where the Amendments are to be thrice read, and the Bill again passed, whereof there was a Precedent in 23. *Eliz.* 20. *Januarii.*

In passing a Bill, the Question is but once put.

Maii 18. 1604. The *Bill for shooting in Guns*, was put to the Question, and passed in the Negative, as Mr. Speaker judged: It was urged that the Voice was doubtful, and a double Question pressed, but forborn, and this Rule agreed: *No double Question upon the passing of a Bill, though*

though ſometimes upon the committing of it, it is double, if the Voice or Queſtion be not clear.

If it happen that two Bills be depending at the ſame time, which have ſo near Affinity, as they may be fit to be joyned; after they have been twice read, the Houſe hath ſometimes Ordered, that they ſhould be ingroſſed as one Bill; this was done in two Bills concerning Treaſons, as appears by the Journal Book, *16. Aprilis, 13. Elizabethæ.*

A Bill once rejected, is not to be offered again the ſame Seſſion, unleſs it be altered in ſome material parts.

15. *Junii*, 1604. Upon Debate of a *Bill for reviving divers Statutes, and repealing others*, a Clauſe was added by the Committee, to be inſerted in an *Act of* 35. *Eliz.* Entituled, *An Act to retain the Queens Subjects in their due Obedience*; to this effect, *That the Husband ſhould not pay for the Wives Recuſancy*; which Clauſe was much argued, and a Queſtion propounded.

The manner of the Queſtion was diſputed which way it ſhould be put,

Whether { That this Clauſe ſhall ſtand, *or*, That this Clauſe ſhall not ſtand?

and

and it was agreed for a Rule, *That upon the adding of any new thing, the Question is to be put in the Affirmative; whether it shall stand upon the continuing of the old; in the Negative, that it shall not stand.*

The Question being, whether the Statute of 43. *Eliz.* Entituled, *An Act for Explanation of a certain Act made* 13. *Elizabethæ*, &c. should be continued; and the House being divided, much Dispute and Difference there was, whether upon this Question the *Yea's* or *No's* should Sit: It was thereupon affirmed and conceived for a Rule, *When any Alteration is required of a Law in being, (as in this Case) and thereupon the Question put; the* Yea's *must sit still, and the* No's *go forth.*

15. *Junii*, 1604. A Question being, whether a Law, formerly made, should continue till the end of the next Session of Parliament; much difference and dispute was, whether, upon the Question, the *Yea's* or the *No's* should Sit: Upon a Question put, it was resolved, the *Yea's* ought to sit still, and the *No's* to go forth. The House was divided, the Reporters differ in the number; the House divided again; this did not satisfy, it being affirmed

affirmed to be contrary to Precedent, and bred much debate, what was to be done: at length, the House was content to let the Question rest as it was, and thought fit to Order a new Bill for reviving the Law.

May, 1604. Resolved to be entred as the Judgment of this House, *That no Speaker from henceforth shall deliver a Bill, whereof the House is possessed, to any whomsoever, without leave and allowance of the House, but a Copy only.* Eodem die: *It is no possession of a Bill, except the same be delivered to the Clark to be read, or that the Speaker read the Title of it in the Chair.*

CHAP. X.

Private Bills, and Proceedings on them.

WHen there are many Private Bills, the House hath sometimes set apart certain times for that Business only.

As, 7. *Maii*, 1571. It was Ordered, *That the House do begin to sit on* Friday *next at Three of the Clock in the Afternoon, and continue till Five; and so every* Monday, Wednesday *and* Friday, *till the end of the Session, the same time to be employed only in the reading of Private Bills.*

And in the first Parliament of King *James*, It was Ordered, *That the House should meet at Seven of the Clock, and the time till Nine of the Clock should be spent in reading Private Bills.*

When any Private Bills; that is, Bills concerning Private Persons, Corporations, or some one or more particular Shire, or Counties; or any Publique Bills wherein is any Clause or *Proviso*, that concerns such Person, Corporation, County or Counties, is preferred to the House,

or

or in agitation in the House, such person or persons may be heard by themselves or Council, either at the Bar of the House, if it be desired, or at a Committee to whom such Bill is committed; whereof are many instances.

28. *Junii*, 1607. *A Bill for mending the High-ways in the Counties of* Sussex, Surrey *and* Kent, was ruled to be a Private Bill; and it was Ordered, That ordinary Duties should be paid and performed for the same, or else there should be no further proceeding in it.

20. *Aprilis*, 1606. A Bill was appointed to be read touching the *Fens*; those who followed the Bill, desired their Council might be heard, to open the state of their Case, and the equity and reasonableness of their Petition, before it were read; but it was not admitted: It being declared, That if the Council of the other side desired to be heard, then both should be received: and accordingly it was ruled, *That Council for the maintenance of any Bill, ought not to be heard before it be opposed.*

20. *Maii*, 1604. It was moved, That whereas the Prothonotaries of the Court of Common-Pleas found themselves agrie-

ved by a *Bill*, preferred into this Houſe, *for regiſtring Judgments that may impeach Purchaſers, &c.* being now ingroſſed, their Council might be heard at the Bar upon the third reading; and thereupon it was Ordered, *That Council on all parts intereſſed, ſhould be heard on Thurſday following*; and upon hearing Council, the Bill was daſhed.

7. *Maii*, 1604. It was moved, That in the Proceedings of a *Bill for confirmation of the Lands of* Henry Butler *Eſq; upon the Marriage of his Son*, there might be notice given by Mr. Speaker to the ſaid *Henry*: which was Ordered, and a Letter written accordingly.

In the ſame Seſſion it was moved, That in the Caſe between *Le Grice* and *Cotterel*, notice might be given by Letter under Mr. Speaker's hand, before any further proceeding; and that Council and Witneſſes might be heard at the Commitee: which was Ordered.

In the Caſe of a Bill between the Earl of *Hertford* and Mr. *Seymour*, Council was heard at the Bar; the Earl of *Hertford* and the Lord *Henry Seymour* his brother came into the Houſe, and were admitted to come within the Bar, and to

ſit

ſit upon ſtools with their Heads covered

11. *Febr.* 1557. In the Parliament 4. and 5. *Philip & Mariæ*, the Abbot of *Weſtminſter* had leave to come with his Council to the Bar of the Commons, touching his claim to the Sanctuary of *Weſtminſter*; and accordingly he came the next day in perſon into the Houſe, and produced ſeveral Patents to make good his Claim; and had a further time given for himſelf and his Council to be heard.

4. *Maii*, 1607. The Council on both ſides were heard at the Bar in the Houſe upon the *Bill for the Marſhalſea*.

11. *Novemb.* 1640. It is Declared as a conſtant Order of the Houſe, That if a Witneſs be brought to the Houſe, the Houſe ſitting, the Bar is to be down; otherwiſe, if the Houſe be in a Committee.

CHAP. XI.

In what Cases Members are to withdraw.

18. *Jacobi*, Upon the Report from the Committee for Privildges, touching Election for *Gaston*, Sir *Henry Brittain* being concerned, and offering to ſpeak in his own Caſe; it was reſolved upon long Debate, *he ſhould be heard to inform the Houſe, and then go forth.*

21. *Jacobi*, A *Bill* which concerned *the Maſter and Fellows of Magdalen Colledge in Cambridge*, being read the ſecond time, and in Debate, It was moved, that Dr. *Gooch* Maſter of *Magdalen* Colledge (who ſerved for the Univerſity) and ſo a party, ought to withdraw; It was reſolved, *He may firſt ſpeak, and then withdraw.*

June 1604. A Bill for eſtabliſhment of divers Mannors, &c. of the late Duke of *Somerſet*, being offered to the Queſtion of commitment; it was moved, That Mr. *Seymour*, a Member of the Houſe and party to the Bill, might go forth during the Debate: which was conceived to be agreeable to former Orders and Precedents

dents in like Cases, and was so Ordered, and Mr. *Seymour* went presently forth of doors.

When any Complaint is made against a Member, or Exceptions taken to any thing spoken by him, (after he hath been heard to explain himself, if he desire, or the House command it, which is usually done by him standing in his place) if the House be not satisfied, but fall into Debate thereof, such Member is to withdraw; as in the several Cases of Doctor *Parry*, the Chancellor of the Dutchy, and others appears.

CHAP. XII.

Censures of Members for offensive Words or Misbehaviour.

THough freedom of Speech and Debates be another undoubted Priviledge of the House; yet whatsoever is spoken in the House, is subject to the censure of the House: and where they find cause (as, *In licitis facile fines transgredimur*) offences of this kind have been severely punished, by calling the person to the Bar, to make submission; committing him to the Tower, (being the usual Prison to which the Commons did commit Delinquents) expelling the House; disabling him to be a Member during that Parliament, and sometimes of any future Parliament.

The Entries in the Journal I find to be as followeth:

17. *May*, 1572. Upon sundry Motions made by divers Members of the House, It was ordered, That *Arthur Hall* Esq; for sundry Speeches used by him in the House and abroad, should be warned by the Serjeant to be at the House on Monday following,

lowing, and at the Bar, to anſwer Matters charged againſt him; and all ſuch perſons as had noted his Words, either in the Houſe or abroad, were forthwith to meet, and ſet down the ſame Words in writing, and deliver the ſame to the Speaker.

On Monday following, Mr. *Hall* was brought to the Bar by the Serjeant, was charged with ſeveral Articles, and confeſſed his folly; and humbly ſubmitted himſelf to the Houſe, and was remitted.

8. *Febr.* 1575. *P. W.* Eſq; one of the Burgeſſes of *Tregony* in the County of *Cornwel*, was, for unreverend and undutiful Words uttered by him in the Houſe, touching the Queen, ſequeſtred; that the Houſe might proceed to conference and conſideration of his ſaid Speech: upon Debate whereof he was committed to the Serjeants Ward, as Priſoner, and ſo remaining, ſhould be examined upon his ſaid Speech, for extenuating his fault therein.

The next day a Report was made of his examination and confeſſion of the words; he was brought to the Bar by the Serjeant, received this Judgement by the mouth of Mr. Speaker.

That he ſhould be committed cloſe priſoner

priſoner to the Tower, till the Houſe ſhould take further conſideration concerning him.

4. *Febr.* 1580. Being the Third Seſſion of the Fourth Parliament of Queen *Elizabeth* 23. Year of her Reign, complaint was made in the Houſe againſt *Arthur Hall* Eſq; before named, who had cauſed a Book to be printed, wherein was publiſhed the Conferences of the Houſe; and in it was contained matter of Reproach againſt ſome particular Members of the Houſe, derogatory to the general Authority, Power, and State of the Houſe, and prejudicial to the validity of the Proceedings of the ſame. The matter was referred to a Committee to examine, and upon Report thereof, and bringing the ſaid Mr. *Hall* to the Bar ſeveral times to Anſwer; he was ſentenced by the Houſe to be committed to the Tower, (as the priſon proper to this Houſe) there to remain for the ſpace of Six Months, and ſo much longer, as until he ſhould himſelf willingly make a Retraction of the ſaid Book, to the ſatisfaction of the Houſe, or of ſuch Order as the Houſe ſhould make during that Seſſion.

That the ſaid *Arthur Hall* ſhould be fined

fined to the Queen Five hundred pounds for his ſaid Offence.

That he ſhould be preſently ſevered and cut off from being a Member of this Houſe during this Parliament, and a Writ to iſſue for Election of a new Burgeſs, for the Borough of *Grantham*, in his ſtead.

That the ſaid Book ſhould be deemed and adjudged falſe and and erroneous.

Thereupon, the ſaid Mr. *Hall* was brought to the Bar, unto whom Mr. Speaker, in then name of the whole Houſe, pronounced the ſaid Judgment, in form aforeſaid; and the Serjeant was commanded to take charge of him, and to convey him to the Tower, and deliver him to the Lieutenant of the Tower, by Warrant of this Houſe to be ſigned by the Speaker.

18. *March*, 1580. He having continued priſoner in the Tower without any Retraction, the Houſe appointed a Committee to allow the ſaid Retraction, and to report it to the Houſe at the next Seſſion.

It appeareth by the Journal 21. *November*, 1586. That he was diſabled for ever to ſerve in Parliament.

17. *December*, 1584. A Bill againſt Jeſuits

Jesuits and Seminary Priests passed upon the Question: Dr. *Parry* only gave a Negative; and after inveighed in violent Speeches against the whole Bill. Upon which, he was sequestred from the House into the outer room, into the hands of the Serjeant, and not to confer with any while the House was in Debate of that Business. Afterwards he was brought to the Bar, and there kneeling, was told by the Speaker, If he thought fit, the House was content to hear his Reasons; but he refusing, was committed to the Serjeants Ward.

The next day he was brought to the Bar, and kneeling, confessed he had undutifully behaved himself; and had rashly and unadvisedly uttered those Speeches he had used; and was, with all his heart very sorry for it: Alledging withal, he had never been of the House till that Session, and so could not so well know the Orders of the House as he should do; and that he would not henceforth willingly offend the House, nor any one man in it; and so humbly prayed their good favour towards him. Whereupon, being again sequestred out of the House, after some Arguments and Debates, it was resolved. Upon his acknow-

knowledgement of his fault, and his humble ſubmiſſion, he ſhould be received into this Houſe again, as a Member thereof, and take his place as before, ſo that he would ſtill afterwards behave himſelf in good ſort as he ought to do: and thereupon, being called again to the Bar, and there kneeling, and directly reiterating his former Confeſſion of his fault, and humble ſubmiſſion, with promiſe of better demeanor, he was re-admitted.

13. *Febr.* 1606. Upon a Report made in the Houſe, of the Remembrances formerly ſet down of the particulars of a Conference, the Speaker offering to read the Paper, and being interrupted by ſome Motions and Diſputes, whether they ſhould be read one by one, and ſo debated, or all at once: in that difference, one of the Knights for *Buckinghamſhire*, with a loud voice (not ſtanding up bare-headed, as the Order is) preſſed to have them read. The Houſe obſerving his earneſtneſs, and manner of ſitting and calling, for Orders ſake urged him to ſtand up and ſpeak. He ſtood up, and pretending to offer ſome Reaſons, fell into an Invective againſt the Scots, much diſtaſtinig the Houſe; yet out of a common care to expedite

pedite the weighty Buſineſs then in hand, his Speech was neglected without Tax or Cenſure.

But on *Monday* following it was remembred, and his words of offence recited in particular; the Gentleman being abſent, was ſent by the Serjeant.

Touching the manner of proceeding in this Caſe, many Motions and Queſtions were moved: as, 1. Whether to name a Committee to conſider therewith to charge him. 2. Whether to cenſure him upon their own knowledge, without other Circumſtances, the Fault being apparent. 3. Whether to charge him in general, or with the particular Words. Much was ſaid upon theſe Queſtions *pro* and *contra*, and the Precedents of *Parry* and *Throckmorton* remembred, wherein, for Words ſpoken in the Houſe, the proceeding was by the Houſe, and not by Committee; the Offences generally charged, and puniſhed, and the Words put in oblivion; and ſo in this Caſe, the Judgment and Proceeding reſolved to be accordingly.

The Serjeant having brought the Offender, it was moved he might be heard at the Bar, which was aſſented unto; and after he had ſpoken, he was commanded

to

to retire; and not long after, was called in again to the Bar, where kneeling, Mr. Speaker acquainted him, since the Offence was so apparently heinous, the House did not hold it fit, that any particulars should be named, or give any Reason of their Judgment; but the Order was, He should be carried to the Prison of the Tower, and there remain during the pleasure of the House: and that he should be dismissed from his place of Knight of the Shire for *Bucks*, and a new Writ to issue for a new Choice.

15. *Febr.* 18. *Jacobi*, A *Bill* being read the second time *for the better observation of the Sabbath*: one of the Members made an Invective against it; and something which seemed to reflect on a Member of the House who presented it, as savouring of a Puritan and a Factious spirit. Exceptions were taken at the words. After he had explained himself, he was ordered to withdraw out of the House; and Debate being had, he was called to the Bar, and upon his Knees, received the Judgement of the House pronounced by the Speaker: That he should be discharged from the Service of the House; with an intimation, that his Judgment was very

merciful

merciful, for that the House might for so exorbitant an Offence, have imprisoned and further punished him.

3. *April*, 1604. In a Debate upon a Bill, a Member of the House uttered some Speeches highly distasting the House; but no notice was taken of it till the Bill was committed, and then the Words being repeated, he was called to the Bar, where he made his excuse, and was pardoned.

26. *April*, 1641. Great offence was taken by the House at words spoken by Mr. *J. H.* He was first heard to explain himself, and then commanded to withdraw, and was called to the Bar, and suspended the House during that Session of Parliament.

27. *May*, 1631. A Paper was brought in containing Words spoken by Mr. *Taylor* a Member of the House, concerning the passing the Bill of Attainder of the Earl of *Strafford*: who being heard to explain himself, and then commanded to withdraw; after some Debate in the House, it was resolved, That he should be expelled the House; be made uncapable of ever being a Member of this House; and should forthwith be committed prisoner to the Tower, there to remain during the pleasure of the House; and should make an acknow-

acknowedgment of his Offence, both at the Bar and at *Windſor* publiquely. And he was called to the Bar, and there kneeling Mr. Speaker pronounced the Sentence accordingly.

Of later times it hath been obſerved, as moſt conducing to the ſervice of the Houſe, that if in Debate words be let fall that give Offence, Exceptions ſhould be taken the ſame day, and before ſuch Member go out of the Houſe; or he who is offended may move, That ſuch perſon may not go out of the Houſe, until he hath given ſatisfaction in what was by him ſpoken. And in ſuch Caſe, after the preſent Debate is over, the words muſt be repeated by the perſon excepting; and in caſe he deſire, or the Houſe command him, he is to explain himſelf, ſtanding in his place; which if he refuſe to do, or the Houſe be not ſatisfied with ſuch Explanation, then he is to withdraw: But neither is this to interrupt the preſent Buſineſs of the Houſe, as in the Caſes before mentioned; nor if it be omitted that day, hath it been recalled afterwards to avoid miſtakes, and out of a willingneſs rather to paſs by, then take occaſion of Offence.

13. *May* 12. *Jacobi*, Upon report of the Amendments to the Bill for the due obſervation of the Sabbath day, complaint was made that ſome indignity was offered to Sir *R. Owen*, when he was in the Chair at the Committee, by Sir *W. H.* that told him he was partial; and by Sir *R. K.* who took him by the hand, and told him, he would pull him out of the Chair, that he ſhould put no more tricks upon the Houſe.

Sir *W. H.* being preſent, made an acknowledgement of his Error, which upon the Queſtion was taken for a good ſatisfaction.

Sir *R. K.* was Ordered by the Houſe to acknowledg his Error at the Bar.

19. *Jacobi*, Some ſpeeches paſſing in the Houſe privately between two of the Members, and ſome offence taken, which ſeems was not intended to be given; one of them in going down the Parliament ſtairs ſtruck the other; who thereupon catched at a ſword then in his mans hand to ſtrike with it. Upon complaint made of it to the Houſe, they were both of them ordered to attend the Houſe. Being come, he who gave the blow was called in, and ſtanding (not at the Bar, but by the Bar,

Bar, was examined by Mr. Speaker, confeſſed the giving the blow, inſiſted on the provocation, and withdrew. The other was alſo called in, to relate the Truth. After he had made the relation, and was likewiſe withdrawn, and Teſtimony given by a Member of the Houſe who heard the words; the Houſe proceeded to Sentence againſt Mr. C. who ſtruck the blow: he being brought to the Bar, there on his knees he received Judgment, which was pronounced by the Speaker, That he ſhould be committed to the *Tower* during the pleaſure of the Houſe.

CHAP. XIII.

Calling the Houſe.

THere are two ends of Calling the Houſe.

1. To diſcover whether any were in the Houſe, who are not returned by the Clerk of the Common-wealth (formerly called the Clerk of the Crown) in Chancery; it having been accounted a great Crime, and ſeverely puniſhed.

5. *Martii*, 1557. In the Parliament held 4. & 5. *Phil. & Mariæ*, I find this Entry:

For that *Chriſtopher Perne* affirmed, that he is returned a Burgeſs for *Plimpton* in *Devon*, and hath brought no Warrant thereof to the Houſe, nor is returned hither by the Clerk of the Crown, by Book or Warrant; he is awarded to be in the cuſtody of the Serjeant, till the Houſe have further conſidered.

It appears by that Book afterwards, that he was choſen a Burgeſs, and admitted.

9. *January*, 1562. In the ſecond Parliament of Queen *Elizabeth*, For that it ſeemed

ſeemed to the Houſe, being very full, that there were a greater number then was returned; therefore the Names were immediately called over, and as they were called, departed out of the Houſe.

7. *Febr.* 1588. The Houſe was called, and every one anſwered to his name, and departed out of the Houſe as they were called.

2. But chiefly the Calling the Houſe, is to diſcover what Members are abſent without leave of the Houſe, or juſt cauſe; in which caſe, Fines have been impoſed. And on this occaſion, if the Houſe be called, the manner hath been to call over the Names, and each Member to ſtand up at the mention of his name, uncovering his head. Such as are preſent are marked, and the Defaulters called over again the ſame day, ſometimes the day after, ſometimes ſummoned, ſometimes ſent for by the Serjeant.

19. *June*, 1607. The Houſe was called by the general Book of Names in order as they were ſet down by the Clerk of the Crown at the beginning of the Parliament, (ſo it is there entered) the Clerk called every one by his name; the perſon called, if preſent, riſeth up bare-headed,

and anſwereth; if abſent, he is either excuſed, and ſo entred, *viz.*

either. { *Dicentiatur per ſpeciale ſervitium.*
Excuſatur ex gratia.
Ægrotat.

If none excuſe him, he is entred *Deficit:*

That no Perſon may ſit in the Houſe until he be returned as aforeſaid, appears by ſeveral Inſtances of perſons who were not Members; and for coming into the Houſe, were brought to the Bar, and ſome committed; and ſome ſworn, before they departed, to keep ſecret what they had heard there.

CHAP.

CHAP. XIV.

Petitions in Parliament.

PEtitions are uſually preſented by Members of the ſame County; if they be concerning private Perſons, they are to be ſubſcribed, and the Perſons preſenting them, called in to the Bar to avow the ſubſtance of the Petition, eſpecially if it be a Complaint againſt any.

So 18. *November*, 1640. one *Vivers* preſented a Petition in the name of the Major, Aldermen, Burgeſſes, and other Inhabitants of *Bambury*, was called in, and did acknowledge the hand to the Petition to be his; and that he did deliver it by order, and on behalf of the Town of *Bambury*, and thereupon it was committed.

The like, in the ſame Parliament, upon reading the Petition of one *Ward* of *Salop*: And likewiſe on reading the Petition of *Henry Hoogan*.

CHAP. XV.

Priviledge of Parliament.

IT is often mentioned in the Journals upon Debates, That Priviledge was due *eundo, morando, redeundo*, for the persons of Members, and their necessary Servants; and in some cases for their Goods and Estates also during that time.

Some Question hath been touching the time in which the Priviledge is so be allowed, and the manner how it is to be obtained.

For the first, the Precedents are very numerous for allowing *Priviledge* during the Sessions.

1. For their own persons, They have been priviledged from Suit, Arrests, Imprisonments, attendance on Tryals, serving in Juries, and the like; yea, from being summoned or called to attend upon any Suit in other Courts by *Subpœna* served on them. To begin with the latter.

Subpœna.

In the Parliament 4. & 5 *Phil. & Mariæ*, 29. *January*, 1557. *Thomas Ennys* Burgeis for the Borough of *Thusk*, complained that a *Subpœna* was delivered him to appear in Chancery, and required the Privi-

Priviledge of the Houſe; whereupon Sir *Clement Higham* and Mr. Recorder of *London* were ſent to the Lord Chancellor to revoke the Proceſs.

And albeit an Entry is made in the Journal 10 *Februarii*, 1584. 26 *Elizabethæ*, That upon Motion made touching the opinion of the Houſe for Priviledge, in caſe of a *Subpœna* ſerved out of the Chancery upon Mr. *Richard Cook* a Member of the Houſe: It was Ordered, That the Recorder of *London*, and two other Members of the Houſe, attended by the Serjeant, ſhould repair preſently in the name of the whole Houſe, into the body of the Court of Chancery, and there to ſignifie to the Lord Chancellor and Maſter of the Rolls, That by the ancient Liberties of this Houſe, the Members of the ſame are priviledged from being ſerved with *Subpœna's*; and to require withal, not only the diſcharge of Mr. *Cook's* Appearance, but from thenceforth, to grant Priviledge for other Members, upon the requeſt of the Houſe ſignified under the Speakers hand; which Mr. Recorder and the reſt did accordingly. But they return this anſwer, That the Lord Chancellor told them, he knew no ſuch Priviledge

ledge touching *Subpœna's*, and would not allow it, unless the House did prove it had been allowed also in that Court of Chancery: whereupon Precedents were directed to be viewed; but within few days after the Parliament ended.

Yet the practice in succeeding times declares the Priviledge, as appears by the Instance following, (which was the next Year after) and these that follow, with a multitude more which might be mentioned.

27. *Eliz.* One *Kirle*, having caused a *Subpœna* out of the Star-Chamber to be served on a Member of the Commons House; and for want of Appearance, taken out an Attachment, and inforced the payment of Money to discharge the same: the said *Kirl* was committed till he had paid Costs to the person served, and made a submission to the House on his knees at the Bar.

15. *Maii*. 1604. A *Subpœna* out of the Chancery to appear, was served on the person of Sir *Robert Needham* Knight; a Member of Parliament: upon complaint thereof, the Serjeant was sent to Attach the body of him who served the *Subpœna*.

7. *Maii*, 1607. The Serjeant was sent for

for *Edward Throckmorton*, for ſerving a *Subpœna* on Sir *Oliver Cromwel*.

14. *Maii*, 19. *Jacobi*, Upon complaint of the ſervice of a *Subpœna* on a Member of this Houſe, Sir *Edward Coke* vouched a Precedent; 10. *Edvardi* 3. That a *Subpœna* being ſerved on the Clerk of this Houſe, the party was committed for breaking the Priviledge of this Houſe.

4. *Maii*. 1607. A *Subpœna* out of the Exchequer being ſerved on Sir *R. Pawlet* a Member of the Houſe; the Houſe thought fit to grant Priviledge, and that the ſame courſe ſhould be taken, as in other the like caſes are uſual: *viz*. The Serjeant by his Mace to Attach the parties Delinquents, and to bring them to the Bar, to receive the Judgment of the Houſe; and Mr. Speaker the next day wrote a Letter to the Lord chief Baron, that no further Proceſs do iſſue againſt the ſaid Sir *R. Pawlet*.

3. *Decemb*. 19. *Jacobi*, Upon occaſion of a *Subpœna* ſerved on Mr. *Breeriton*, it was agreed by the whole Houſe, That the ſerving of a *Subpœna* upon a Member of this Houſe, knowing him to be a Parliament Man, in a Breach of Priviledge; and *Napper* who ſerved the *Subpœna* was committed.

Arreſt.

33. *Eliz.* The Sheriffs of *London* were fined by the Commons, and ſent to the Tower, for not delivering a Burges arreſted for Debt, ſitting the Parliament.

6 *April*, 1593. The Serjeant at the Mace who arreſted Mr. *Neal*, a Member of this Houſe, upon an Execution; as alſo *Weblin*, at whoſe Suit he was arreſted, contrary to the Priviledge of this Houſe, were this day brought to the Bar, and were both commited priſoners to the Tower; and the Serjeant at Arms attending this Houſe, was ordered to deliver them over to the Lieutenant of the Tower.

Utlary.

13. *May.* 1607. *Nicholas Allen* an Attorney, and *Palmer*, at whoſe Suit Mr. *Martin*, a Member of this Houſe, was outlawed, were ordered to be ſent for by the Serjeant, and brought to the Bar to anſwer their Contempt.

Attachment.

In the ſame Parliament, there being Complaint, that an Attachment was taken forth

forth againſt Mr. *Bellingham*, a Member of this Houſe, out of the Court of Chancery, for a Contempt; the Houſe ordered to have Priviledge, and a Letter was ordered to be ſent to Mr. *Evelin*, one of the ſix Clerks, to ſtay the Suit.

Iſſues.

A Writ of Petition being iſſued out, a Writ was directed to the Sheriff, to levy xx. l. Iſſues upon Sir, *Robert Oxenbridge*, for Non-appearance; the ſame was complained of, and the Houſe granted Priviledge, with this, That if the Iſſues were not diſcharged before the next day at night, the parties Delinquent were the day after to be brought to the Bar by the Serjeant.

Tryals.

14. *May*, 1576. Sir, *Edward Montague*, a Member of the Houſe, was warned to attend a Tryal in *London*, which was to be had againſt him; and was by Order of the Houſe priviledged; and the party that gave the warning, was ſummoned to appear at the Bar the next morning.

21. *Febr.* 1588. Upon Motion made by

by divers Members of the Houſe, having Writs of *Niſi prius* brought againſt them, that Writs of *Superſedeas* might be awarded, in reſpect of the Priviledge of this Houſe, due to the Members: It was Ordered, That thoſe Members of the Houſe, who have occaſion of ſuch Priviledge, ſhould declare their Caſe to the Speaker, who ſhall thereupon direct the Warrant of this Houſe to the Lord Chancellor, for awarding ſuch Writ of *Superſedeas*.

3. *Martii*, 18. *Jacobi*, Upon a Report from a Committee appointed to conſider of a way of ſtaying Tryals againſt Members of the Houſe; That by ſeveral Precedents, the Cuſtome appeared to be in ſuch Caſes, That on Motions and Orders in the Houſe, Letters were written to the Juſtices of Aſſize for ſtay of Tryals againſt Members of the Houſe; which Letters were entred in the Journal Book, and that it belongeth to the Clerk to write the ſame. It was thereupon reſolved, That the former courſe of writing Letters to the Juſtices of Aſſize, ſhould be held according to former precedents.

10. *Junii*, 1607. Sir *Robert Johnſon* a Member of the Houſe moved for a Letter

to

to ſtay a Tryal againſt him in the Exchequer, which was granted, as appeareth by the Entry on the 13 day, when a Petition of Sir *Robert Brett* was read againſt that priviledge. The priviledge formerly granted was affirmed, upon this Reaſon, That no man ſhould have any thing to withdraw him from his Service in the Houſe. The like 14. *Feb.* 18. *Jacobi.*

And ſo much this priviledge hath been inſiſted on by the Houſe, that it hath been a Queſtion, Whether any Member of the Houſe could conſent that himſelf ſhould be ſued during the Seſſion; becauſe the priviledge is not the perſons ſo much as the Houſes: And therefore, when any perſon hath been brought to the Bar for any Offence of this nature, the Speaker hath uſually charged the perſon in the name of the whole Houſe, as a breach of the priviledge of the Houſe.

And when, 3. *June*, 1607. Sir *Thomas Holcroft* a Member of the Houſe, had occaſion to ſue at Law, and was ſued, with which he was content, and deſired the leave of the Houſe; there was a Queſtion, whether the Houſe ſhould give leave for a breach of priviledge, and it was reſolved, *The Houſe might give leave.*

Juries.

Juries.

7. *Maii*, 1607. Sir, *Thomas Bigg* and Sir *Thomas Love*, being returned upon an Attaint in the Kings-Bench; it being moved, that in this Caſe they ought to have Priviledge: it was ſo ordered, and the Serjeant ſent with his Mace, to deliver the pleaſure of the Houſe to the Secundary, the Court ſitting.

22. *Novemb.* 1597. Sir *John Tracy*, a Member of this Houſe, being at the Common-pleas Bar, to be put upon a Jury; the Serjeant at Arms was preſently ſent with his Mace to fetch him thence, to attend his Service in the Houſe.

Commitment.

April 12 *Jacobi*, Sir *William Bampfield* was committed by the Lord Chancellor for a Contempt, after the Writ of Summons, but before the Election Ordered upon the Queſtion, That he ſhall have his Priviledge by Writ of *Habeas Corpus*.

Sheriff.

1. *Jacobi.* 2d. *Seſſ.* Sir *John Peyton* Knight for *Cambridge*, being returned the laſt Seſſion,

Session, and since chosen Sheriff; Mr. Speaker moved to know the pleasure of the House, Whether he should attend his Service here: And it was resolved upon the Question in the House, he should attend his Service here.

Privilege to Servants.

Privilege was also granted to the *Servants* of *Members* during the sitting of Parliament.

16° *Febr.* 5° *Eliz.* *Robert Parker*, Servant to Sir *William Woodhouse* Knight for *Norfolk*, being attached in *London*, at the Suit of one *Baker*, in a Trespass; had a Warrant of Privilege, notwithstanding Judgment given against him for Four Marks.

26° *Febr.* 18° *Eliz.* 1575. Upon the Question, and also upon Division of the House, *Edward Smaley* Servant unto *Arthur Hall* Esq; one of the Burgesses for *Grantham*, being arrested upon an Execution, had Privilege.

16° *Decembr.* 44° *Eliz.* *Anthony Curwen* Servant to *William Huddleston* Esq; one of the Knights of *Cumberland*, being arrested upon a *Capias ad satisfaciendum*,

out of the Common-Pleas, for Six pounds Debt and Forty ſhillings Damages, and detained in Execution; a *Superſedeas* was awarded, and he was delivered.

11° *Maii* 19° *Jacobi*, The Under-Sheriff of *Middleſex* was called to the Bar, for cauſing *Alexander Melling*, Servant to the Chancellor of the Dutchy, to be arreſted; he denied he knew him to be his Servant: Mr. Speaker let him know, the Houſe had ordered him to have Privilege; and therefore ordereth the Under-Sheriff to diſcharge him.

2. Seſſion of the Parliament 1° *Jacobi*, Sir *Edward Sandys* moveth a breach of Privilege by Sir *Robert Leigh* a Juſtice of Peace, for committing his Coachman to *Newgate*: Sir *Robert Leigh* was ſent for by the Serjeant, and an *Habeas Corpus* for the Priſoner. Sir *Robert Leigh* being brought to the Bar, acknowleged his fault, and was diſcharged, and ſo was the Priſoner.

3° *Maii*, 1606. *Valentine Syre* Servant and Bag-bearer to the Clerk of the Commons Houſe, being arreſted upon an Execution, was by Order and Judgment of the Houſe enlarged.

7° *Sep.* 1601. *Woodal* Servant of *William Cook*

Cook Esq; a Member of the House, being arrested, and in prison in *Newgate*; the Serjeant at Arms was presently sent to *Newgate* to bring him to the House, *sedente Curia*; and being brought to the Bar with his Keeper, was discharged by Order of the House from his said Keeper and from his imprisonment.

1 *July*, 1607. *John Pasmore* the Marshals Man being sent for and brought to the Bar, for arresting *John Jessop* Waterman, Servant to Sir *Henry Nevil*, a Member of the House; he denied that he knew he was Sir *Henry*'s Servant until afterwards; notwithstanding, he took an *Assumpsit* from him to answer the Action: The House thought fit to commit him to the Serjeant till the House's pleasure were further known, and till he had discharged the *Assumpsit*, and paid the Fees.

17. *June*, 1609. Upon a Report of the Committee for Privileges, That a menial Servant of Sir *Robert Wroth* was arreed eight days before this Session; the Serjeant was sent for the prisoner, and the Serjeant that made the arrest, one *King*, who followed it, and *Fisher* at whose Suit he was arrested.

4° *Junii* 19° *Jacobi*, *Johnson* a Servant

to Sir *James Whitlock*, a Member of the Commons Houſe, was arreſted upon an Execution by *Moor* and *Lock*, who being told Sir *James Whitlock* was a Parliament man; *Fulk* one of the Proſecutors ſaid, He had known greater mens men than Sir *James Whitlock* taken from their Maſters heels in Parliament time. This appearing, *Lock* and *Moor* were called in to the Bar, and by the Judgment of the Houſe were ſentenced,

1. That at the Bar they ſhould ask forgiveneſs of the Houſe, and of Sir *James Whitelock* on their knees.

2. That they ſhould both ride upon one Horſe bare-backed, back to back, from *Weſtminſter* to the *Exchange*, with Papers on their breaſts, and this Inſcription, *For Arreſting a Servant of a Member of the Commons Houſe of Parliament*: and this to be preſently done *ſedente Curia*; which judgment was pronounced by M. Speaker againſt them at the Bar upon their knees.

28. *Aprilis*, 22 *Jacobi*, a Warrant was Ordered to be iſſued by the Speaker, for a Writ of Privilege, to bring up *Andrew Bates*, ſervant to Mr. *Richard Godfrey* of the Houſe, in Execution with the Sheriff of *Kent*, at the Suit of one *Hunt*.

Goods

Goods.

That the Members of this House have also Privilege for their Goods, is not without some precedent.

12. *March*, 1606. Complaint was made by Mr. *James*, a Burgess of Parliament, That his Horse standing at his Inn, was taken by the Post-masters servant; both the Post-master and his servant were sent for, and brought to the Bar: *Moreton* the Post-master appearing to be ignorant of what his servant had done, and disavowing it, was by Order of the House discharged: But upon the testimony of a witness at the Bar, that he told the servant when he took the Horse, that a Member of Parliament was owner of it, the servant was committed.

In Adjournment.

During the Adjournment, like Privilege was granted and affirmed.

In *December* 1606. *Thomas Finch*, a servant to Sir *Nicholas Saundys* Knight, one of the Burgesses for *Quinborough*, was arrested during the Adjournment; which being conceived to be a great Contempt

to the Privilege of the Houſe, an *Habeas Corpus* was awarded to bring him to the Houſe, and he was accordingly brought, and alſo one *Knight*, who procured the arreſt, and *Harriſon* the Yeoman.

The excuſe was, *Finch* was an Attorney at Law, yet it being avowed by Sir *Nicholas Sandys*, that *Finch* lay in his houſe, ſolicited his Cauſes, and received Wages from him; and it being inſiſted on, that all menial and neceſſary ſervants are to be privileged, and inſtance given of a Precedent of the Baron of *Walton*'s Solicitor, and *Huddleſton*'s Solicitor, in the time of Queen *Elizabeth*: upon the Queſtion, *Finch* was privileged, and delivered according to the ſaid Precedents.

During that Adjournment, a Suit was proſecuted in the Court of Wards againſt *Nicholas Potts* Eſq; and *Francis Wethered* Gent. Committees of a Ward which concerned Mr. *Nicholas Davyes*, ſervant to the then Speaker, as Aſſignee of the Ward. The Speaker by vertue of a former general Order of the Houſe, wrote a Letter to Sir *Cuthbert Pepper*, Surveyor of the Court of Wards and Liveries, to make known to the Court, That the ſaid *Davyes* was one of his Clerks, and near-

eſt

eſt Servants, and the Privilege now as warrantable as in time of ſitting; and therefore prayed him and the Court to take notice of it.

During another Adjournment in *March* following, the Speaker warranted by the like general Order, at the deſire of Sir *Edmund Ludlow*, who was ſummoned to attend the Execution of a Commiſſion out of the Chancery, wrote a Letter to the Commiſſioners to excuſe his Attendance, and that he ſhould not be prejudiced by his abſence.

In *May*, 1607. During an Adjournment, the Speaker directed a Letter to the Lord Preſident and Council at *York*, to ſtay Proceedings in a Suit againſt *Talbot Bowes* a Member of this Houſe.

Privilege, as well before as after the Parliament.

The great Queſtion is, Within what time this Privilege may be claimed before and after the ſitting of the Parliament. It is clear, it hath been claimed and allowed for ſome time before and after the ſitting. One Precedent may ſerve, becauſe it is famous, and for the proceedings in it *inſtar omnium*.

1. *Jacobi*, The first day of sitting, complaint was Made, That Sir *Thomas Shirley* chosen a Member of the House, was arrested four days before the sitting of this Parliament; a Warrant issued to the Clerk of the Crown for a *Habeas Corpus*, to bring him to the House, being then prisoner in the *Fleet*; and the Serjeant and his Yeoman were sent for in custody, who being brought to the Bar, and confessing their fault, were remitted for that time: The Writ being not executed, the House fell again into Debate touching the Privilege, and how the Debt to the party might be satisfied, because the Debt was gone if the party were delivered; and thereupon came to three Questions:

1. Whether Sir *Thomas Shirley* shall have Privilege.

2. Whether presently, or to be deferred till further Order.

3. Whether the House should be petitioners to the King, according to former precedents, for some course, for securing the Debt to the party, and saving harmless the Warden of the *Fleet*. All which Questions were resolved in the Affirmative, and a Bill drawn to secure *Simpsons* Debt, *&c.* which also produced a

Bill

Bill for relief of Plaintiffs in Writs of Execution, where the Defendants in such Writs are arrested, and set at Liberty by Privilege of Parliament.

17. *April*, Upon hearing Council in the House at the Bar, for Sir *Thomas Shirley* and the Warden of the *Fleet*; and upon shewing divers precedents, 39. *Hen.* 6. one *Clark* taken in Execution before the Parliament begun, was privileged. 30. *Hen.* 6. *Ferrers* Case in *Hollingshead*'s Chronicle; the Case of *Huddleston*'s servant before remembred; this being added, that his Body was freed, but his Lands and Goods left subject. It was Ordered, That *Simpson* at whose Suit, and the Serjeant by whom the Arrest was made, should be committed to the *Tower*.

4. *May* following, an *Habeas Corpus* was awarded to the Warden, to bring Sir *Thomas Shirley* to the House; the Warden denied to execute it, for which 7. *May* following, he was sent for by the Serjeant, and brought to the Bar, who denying to bring his prisoner, a new Writ of *Habeas Corpus* was awarded, and the warden was committed to the Serjeant, with this, that if that writ were not executed, then

then he ſhould be delivered over to the Lieutenant of the *Tower*, as the Houſe's priſoner.

8. *May*, The Serjeant was ſent with his Mace to the *Fleet*, the Houſe ſitting, to require the Body of Sir *Thomas Shirley*, being directed by the Houſe to purſue the Precedent of *Ferrers*, recorded in *Hollingſhead*'s Chronicle, and in the Book of Juriſdiction of Courts by *Crompton*: but the Serjeant being denied, a warrant was made to the Serjeant, to deliver the Warden of the *Fleet* to the Lieutenant of the *Tower*, to be kept cloſe Priſoner.

11. *May*, The Warden was again ſent for, and brought to the Bar, and refuſing to deliver up his priſoner, he was committed to the place called the Dungeon, or Little-eaſe, in the *Tower*.

14. *May*, A new Warrant was ordered for a new Writ of *Habeas Corpus*, and that the Serjeant ſhould go with the writ; that the Warden ſhould be brought to the Door of the *Fleet* by the Lieutenant himſelf; and there the Writ to be delivered to him, and the Commandment of the Houſe to be made known to him by the Serjeant, for the executing of it. That in the mean time, the Warden to

be

be presently committed to the Dungeon, and after to be returned thither again.

18. *May*, The Warden did deliver Sir *Thomas Shirley*, and so was not put into the Dungeon.

19. *May*, He attending at the door, was brought into the Bar, where, upon his knees, confessing his error and presumption, and professing he was unfeignedly sorry he had so offended this Honourable House; Upon that submission, by direction of the House, the Speaker pronounced his pardon and discharge, paying ordinary Fees to the Clerk and the Serjeant.

That this Privilege doth take place by force of the Election, and that before the Return be made, appears by the proceeding in the Case following.

19. *November*, 1601. Upon Information to the House, that one *Roger Baston* Servant unto *Lancton*, Baron of *Walton*, who (upon credible report of divers Members of the House, was affirmed to be chosen a Burgess for the Borough of *Newton* in *Lancashire*, but not yet returned by the Clerk of the Crown) had been during that Session of Parliament arrested in *London*, at the Suit of one *Muscle*;

Muſcle; the ſaid *Muſcle*, together with the Officer that made the arreſt, were ſent for by the Serjeant, and brought to the Bar; and there charged by Mr. Speaker, in the name of the whole Houſe, with their Offence herein: and having been heard, *Baſton* was ordered to have Privilege, and to be diſcharged of his Arreſt and Impriſonment, and the Offenders for three days committed to the Serjeant; and ordered to pay ſuch Charges to *Baſton*, as the Speaker ſhall ſet down, and their Fees.

For how long time before, and after the Parliament.

By theſe Inſtances, as alſo by *Clark*'s Caſe, 39. *Hen.* 6. and the Caſe of Sir *Robert Wroth*'s ſervant before recited, it appeareth, That Privilege doth take place before the Parliament begin, but for what time is the Queſtion; what appears by the Journal Book tending to clear it, is thus.

6. *March*, 1586. This day *William White* brought to the Bar, for arreſting Mr. *Martin* a Member of the Houſe, made anſwer, That the arreſt was above fourteen

fourteen days before the beginning of the Parliament: the Houſe thereupon appointed a Committe to ſearch the precedents.

Upon Report made, that Mr. *Martin* was arreſted above twenty days off the beginning of the Parliament, held by prorogation; and upon Debate, the Houſe being divided in opinion about the Privilege; for the ending of the buſineſs, three Queſtions were propounded by the Speaker.

1. Whether the Houſe would limit a time certain, or a reaſonable time, to any Member of the Houſe for his privilege?

The Houſe anſwered, *A Convenient time.*

2. Whether Mr. *Martin* was arreſted within this Convenient time?

The Houſe anſwered, *Yea.*

3. If *White* ſhould be puniſhed for arreſting Mr. *Martin?*

The Houſe anſwered, *No.* And the reaſon is given, Becauſe the arreſt was twenty days before the beginning of the Parliament, and the Creditors did not know what ſhould be taken for a Reaſonable time.

24. *April*

24. *April*, 1640. It was this day said in the House, and not contradicted, That every Member of the House hath Privilege for Sixteen days *exclusive*, and Fifteen days *inclusive*, before, and after every Parliament.

The like mention is made in several Parliaments, by Members in Debate.

How Obtained.

For the manner of Obtaining this Privilege, 22. *March* 18. *Jac.* It was resolved, That no protection under any mans hand of this House is good.

22. *Febr.* 6. *Edw.* 6. It is Ordered, If any Burgess require Privilege for himself or his servant, upon declaration thereof to the Speaker, he should have a Warrant signed by Mr. Speaker to obtain the Writ.

22. *Febr.* 18. *Eliz. Aug.* 1575. A report was made by the Attorney of the Dutchy from a Committee, for delivery of *Smaley* a servant to *Arthur Hall*, before mentioned, That they found no Precedent, for setting at large by the Mace any person in arrest, but only by Writ. And that by divers Precedents of Record

perused

perused by them, it appears, That every Knight, Citizen, or Burgess of this House, which doth require Privilege, hath used in that Case to take a Corporal Oath before the Ld. Chancellor or Ld. Keeper, That the party for whom such Writ is prayed, came up with him, and was his Servant at the time of the arrest made. But on the 27. *Febr.* after sundry Reasons, Arguments, and Disputations in the House, it was resolved, That the said *Smaley* should be brought the next day to the Bar by the Serjeant, and so set at Liberty by warrant of the Mace, and not by Writ.

According to which Resolution, the next day *Smaley*, was brought to the Bar in the House by the Serjeant, accompanied with two Serjeants of *London*, and was presently delivered from his Imprisonment and Execution, according to the former Judgment of this House, and the said Serjeants discharged of their said prisoner.

2. *March*, 1592. Upon a Report from the Committee of Privileges and Elections, That one Mr. *Fitz-herbert* was returned a Burgess, and excepted against, because he was alledged to be out-lawed,

and

and detained upon such Outlawry: the House ordered, That Mr. Speaker should move the Ld. Keeper for an *Habeas corpus cum causa*, to bring up the Body and Cause of Mr. *Fitz-herbert*.

But the next day Sir *Henry Knivet* entring into a discourse, touching the Priviledges of the House of ancient times, used and accustomed for the conventing of any persons into this Court, declared his opinion, That Mr. *Fitz-herbert* was rather to be called to appear in this House, by the Serjeants Mace of this House, than any Writ of the Chancery, and quoted a Case of *George Ferrers*; but was put in remembrance by Mr. Speaker; That the manner for bringing Mr. *Fitz-herbert* had received the Order of the House yesterday, and was therefore now neither to be recalled, nor further treated of by this House, till the Appearance of the said Mr. *Fitz-herbert* be first made in this House, according to the said former Order for the same.

On the *7th.* of the same Month, the House being acquainted by Sir *Edward Hobby*, that the Ld. Keeper having been moved for a Writ of *Habeas corpus cum causa*, for Mr. *Fitz-herbert*, his Lordship thought

thought it best, in regard of the ancient Liberties and Privileges of this House; That the Serjeant at Arms be sent, by Order of this House, for the said Mr. *Fitzherbert*, at his own charge; by reason whereof he may be brought hither to the House, without peril of further being arrested by the way: which was also approved of.

Injuries offered to the Members and their Servants, during the Session, have been usually punished by the House, upon complaint.

29. *Febr.* 1575. One *Williams*, for assaulting a Burgess of this House, was upon complaint sent for by the Serjeant, and brought to the Bar, and committed to the Serjeants Ward.

23. *Apr.* 1. *Mariæ*, One *Monington*, for striking *William Johnson*, a Burgess, was sent for, and confessing it, was committed to the *Tower*.

28. *Nov.* 1601. Complaint being made by Mr. *Fleetwood* a Member of the House, That one *Holland* a Scrivener, and one *Brook*, his servant, had evil intreated and beaten the servant of the said Mr. *Fleetwood* in his presence; they were both

sent for by the Serjeant, and brought to the Bar; and for the said Offence committed for five days to the Serjeant.

12. *Febr.* 18. *Jacobi*, Mr. *Lovell* a Member of the House, informed, that one *Darrell* threatned his person, that for a Speech spoken by him in the House, he should be sent to the *Tower* during the Parliament, or presently after: *Darrell* was sent for by the Serjeant, to answer it to the House; and upon testimony of it, he was committed to the Serjeant, till *Thursday* following, and then to acknowledge his fault, or to be committed to the *Tower*.

26. *June*, 1604. Complaint being made of one *Tho. Rogers* a Currier, dwelling in *Coleman-street*, for abusing Sir *John Savill* in slanderous and unseemly terms, upon his proceedings, as a Committee, in the Bill touching Tanners, &c. he was sent for by the Serjeant at Arms to the Bar, to answer his Offence.

CHAP.

CHAP. XVI.

Amendment of Returns.

18. *Jacobi*, The Sheriff of *Leicester-shire* having returned Sir *Thomas Beaumont*; upon Report from the Committee for Elections, That Sir *George Hastings* was duly chosen, the Sheriff was ordered to return Sir *George Hastings* to the Clerk of the Crown, and he to accept it, and file it.

21. *Jacobi*, Upon Report from the Committee of Privileges, That in the Election of Mr. *John Maynard* for *Chippingham*; Mr. *John Maynard* was chosen, but by a mistake, *Charles* was afterward written in stead of *John*: It was resolved, The Return should be amended without a new Writ; and the Question being, who should amend it: Resolved, The Bailiff should do it, and not the Clerk of the Crown; and that it should be sent down to the Bailiff in the Country, and he to return *John Maynard* Esq; the first Burgess.

1. *Febr.* 1640. It being resolved, That the Election of Mr. *Erle* for one of the

Burgesses of *Wareham*, is a good Election; It was Ordered, That the Officer, that was the Officer when the Return was made, or his Deputy, or the Electors, should amend the Return. But the next day it was Ordered, That *Edward Harbin*, the late Mayor of *Wareham*'s Deputy, should come to the Bar of the House, and amend the Return.

20. *Febr.* 1640. The Bailiff of *Midhurst* in *Sussex* came to the Bar, (being sent for by Order of the House) and amended one of the Indentures of Return of Burgesses for that Town, and the other was taken off the File.

FINIS.

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